(2023) 08 RAJ CK 0050

In the Rajasthan High Court

Case No : Civil Revision Petition No. 141 Of 2006

Commercial Taxes Officer — APPELLANT

Vs

M/S Vikas WSP Ltd., Udyog Vihar, Sriganganagar — RESPONDENT

Date of Decision : 17-08-2023

Acts Referred:
Rajasthan Sales Tax, 1954 — Section 4(2), 87

Citation : (2023) 08 RAJ CK 0050

Hon'ble Judges : Rekha Borana, J

Bench : Single Bench

Advocate : Sunil Bhandari

Final Decision : Dismissed

Judgement

Rekha Borana, J

1. The present revision petition has been preferred against the order dated 06.08.2004 passed by the Rajasthan Tax Board, Ajmer in appeal No.1552/2003 qua the assessment year 1997-98.

2. The facts of the case are :-

a. A Gwar Gum Powder unit was set up by the respondent at Sri Ganganagar, Rajasthan on 22.06.1988 with a capacity of 7 Metric Tonnes (MT) which started its commercial production on 18.02.1989. On 29.09.1990, the respondent set up another unit with the capacity of 7 MT. The cumulative capacity of two plants became 14 MT Gwar Gum Powder production per day. Thereafter, the respondent was converted into public limited, under the name and style of M/s. Vikas WSP Ltd.

b. The respondent by application dated 08.09.1992 applied for registration before the Directorate of Ministry of Industries, Government of India to establish a 100% Export Oriented Unit with the production capacity of 42 MT Gwar Gum Powder per day. To reach this capacity, a new plant with the capacity of 28 MT production per day was set up. Thereafter, the respondent again started its commercial production from 24.06.1994 only after its registration as 100% Export Oriented Unit.

c. A notification dated 13.06.1994 came to be issued by the State Government in exercise of its powers under Section 4(2) of the Rajasthan Sales Tax, 1954 (for short, "the Act") providing exemption from tax on the sale or purchase made by a 100% Export Oriented New Manufacturing Unit.

d. The respondent/assessee claimed exemption on all purchases of raw material made in respect of all the three units. The Assessing Officer accepted the claim made by the respondent and granted exemption on all purchases of raw material made in respect of all the three units with production capacity of 42 MT. However, the Commissioner, Commercial Taxes, Rajasthan (for short, "the Commissioner") set aside the assessment order passed by the Assessing Officer in exercise of its power under Section 87 of the Act.

e. Aggrieved by the order passed by the Commissioner the respondent/assessee preferred appeal before the Rajasthan Taxation Tribunal, Jodhpur (for short, "the Tribunal"). The Tribunal, vide its order dated 21.03.1997, partly allowed the appeal by granting benefit of tax exemption with regard to manufacturing unit with production capacity of 28 MT but denied the claim of tax exemption with regard to the manufacturing unit with production capacity of 14 MT gwar gum powder per day.

f. Aggrieved by the order so passed by the Tribunal the revenue preferred Writ Petition before this High Court. The respondent/assessee also preferred their cross appeal. The Division Bench of this High Court, vide its judgment and order dated 07.10.2003, dismissed the writ petition filed by the revenue and allowed the writ petition filed by the respondent/assessee. The Division Bench modified the order passed by the Tribunal by granting benefit of notification dated 13.06.1994 on purchases of raw material for all the units.

3. Meanwhile, in pursuance to the order dated 21.03.1997 passed by the RTT, the assessment order qua 14 MT gwar gum manufacturing unit was passed by the Assessing Officer on 25.03.2000. An appeal against the said order was preferred before the Deputy Commissioner (Appeals) which was partly allowed and the second appeal against the said order preferred before the Rajasthan Tax Board was dismissed vide order dated 06.08.2004. It is against the said order dated 06.08.2004 that the present revision petition has been preferred by the Revenue.

4. Counsel submitted that the appeal preferred by the Revenue against the order dated 07.10.2003 passed by the Division Bench of this Court in D.B. Civil Writ Petition No.2391/1997 has itself been dismissed by the Hon’ble Apex Court in Civil Appeal No.3413/2006 on 27.02.2014. Meaning thereby, the respondent/ assessee is entitled to benefit of notification dated 13.06.1994 on purchase of raw material for all the units.

5. In light of the judgment passed by the Hon'ble Supreme Court in Civil Appeal No.3413/2006 (The Commissioner Taxes, Rajasthan Jaipur and Anr. vs. Vikas WSP Ltd.) decided on 27.02.2014, nothing survives in the present revision petition and the same is therefore, dismissed.

6. All pending applications, if any, also stand dismissed.

