(2007) 08 DEL CK 0264

In the Delhi High Court

Case No : Writ Petition (Civil) No. 8916 of 2005

H and R Johnson India Ltd. APPELLANT

Vs

Commissioner, Sales Tax and Delhi Administration RESPONDENT

Date of Decision : 10-08-2007

Acts Referred:

Citation : (2007) 08 DEL CK 0264

Hon'ble Judges : Vidya Bhushan Gupta, J;Madan B. Lokur, J

Bench : Division Bench

Advocate : S.K. Sharma, for the Appellant; H.L. Taneja, for the Respondent

Final Decision : Dismissed

Judgement

Madan B. Lokur, J.—Rule D.B.

2. The Petitioner is aggrieved by an order dated 21st April, 2003 passed by the Commissioner of Sales Tax, Delhi in a revision petition bearing No. 735/CST/99-2000.

3. The assessed had made local sales to one registered dealer called M/s Shashi Nagpal and Sons during the assessment year 1994-95. It appears that the purchasing dealer did not issue any statutory declarations in form ST-1 to the Petitioner and, Therefore, the Petitioner could not produce them before the assessing authority. On these broad facts, the Sales Tax Officer imposed sales tax on the assessed and also charged interest on the amount not deposited.

4. The Petitioner preferred an appeal which was dismissed by the Deputy Commissioner of Sales Tax by an order dated 20th November, 1999. Since there was no Appellate Tribunal in existence at that time, the Petitioner preferred a revision petition which came to be disposed of by the impugned order.

5. The Commissioner noted, and there is no dispute about this, that the Petitioner had already deposited the tax and the only grievance was with regard to the interest levied by the assessing authority.

6. It was submitted by learned Counsel for the Petitioner before the Commissioner, as well as before us, that his client had furnished ST-1 forms received from M/s Shashi Nagpal and Sons in respect of earlier assessment years and there was no reason why he should be disbelieved in respect of the present assessment year only because he was able to produce the requisite forms.

7. The Commissioner did not agree with the view canvassed by the Petitioner and it was held that the Petitioner had not produced any documentary evidence to prove that sales had been made to M/s Shashi Nagpal and Sons. On the contrary, it appeared that the purchasing dealer had not even obtained any statutory forms in the name of the Petitioner for the year that we are concerned with. Moreover, it was found, as per a report received from the Sales Tax Officer, that M/s Shashi Nagpal and Sons was not available at the given address for the last three years and the registration certificate granted to him was recommended for cancellation. Finally, the account payee cheques received by the Petitioner from M/s Shashi Nagpal and Sons in respect of the transactions in question could not be fully verified.

8. In view of these facts, the Commissioner disbelieved the Petitioner and came to the conclusion that the Petitioner was liable to pay the necessary interest.

9. Before us, learned Counsel for the Petitioner sought to contend that his client was not liable to pay any interest on the amount of tax. Reference was made to J.K. Synthetics Limited and Birla Cement Works and another Vs. Commercial Taxes Officer, State of Rajasthan and another, but we find that that case pertains to the Rajasthan Sales Tax Act, 1954 and the decision concerns the language used in that statute, which is not similar to the Delhi statute. Moreover, we find that the facts of J.K. Synthetics are completely different from the case of the Petitioner.

10. In so far as the present case is concerned, even though the sales were made in 1994-95, tax was paid by the Petitioner only on 30th October, 1998. There was no reason for the Petitioner to have withheld the amount that was legitimately due to the exchequer. By withholding the amount, the Petitioner would have earned some interest on the amount or in any case the Revenue would have lost some amount by way of interest on the tax due. Levy of interest is compensatory and not punitive. Consequently, the Petitioner is liable to compensate the exchequer for utilizing the amount that was legitimately due to the exchequer.

11. Even otherwise, on merits, we find that the reasons given by the Commissioner for denying relief to the Petitioner are quite cogent and no fault can be found with the view taken in this regard.

12. Under the circumstances, we find no reason to interfere with the view taken by the Commissioner. There is no merit in this writ petition which is, accordingly, dismissed.

