(2010) 11 P&H CK 0253

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 17416 of 1994

Jagan Nath and Om Parkash — APPELLANT

Vs

The Excise and Taxation Officer and Others — RESPONDENT

Date of Decision : 15-11-2010

Acts Referred:

Central Sales Tax Act, 1956 — Section 14B, 6(2)
Punjab General Sales Tax Act, 1948 — Section 14B

Citation : (2010) 11 P&H CK 0253

Hon'ble Judges : Ajay Kumar Mittal, J;A.K. Goel, J

Bench : Division Bench

Judgement

Adarsh Kumar Goel, J.—This order will dispose of Civil Writ Petition Nos. 17416 and 17417 of 1994 as common questions are involved in both petitions.

2. In Civil Writ Petition No. 17416 of 1994 challenge is to the proceedings u/s 14B of Punjab General Sales Tax Act, 1948 (hereinafter referred to as "the Act"). Case of the Petitioner is that it purchased goods from Rajasthan and during movement of goods, the same were sold to a dealer in Haryana. In these circumstances, since no tax in the State of Punjab was involved in view of the statutory provisions of Section 6(2) of the Central Sales Tax Act, 1956, there was no occasion to detain the goods u/s 14B of the Act.

3. In the reply, the stand on behalf of the State is that though the goods may have originated from Rajasthan, the same were sold in the State of Punjab by the petitioner. Verification sought to be done as to nature of transaction could not be held to be without jurisdiction at this stage.

4. Since the question whether the transaction was of inter-State sale as claimed in the petition may require adjudication of a disputed question, it cannot be held at this stage that even issuance of notice itself is without jurisdiction. The nature of transaction as pleaded by the Petitioner can be looked into by the concerned authority and if Petitioner is aggrieved, it could take its remedies in accordance with law.

5. In these circumstances, we dispose of these petitions without prejudice to the matter being gone into in appropriate proceedings.

