(2003) 08 DEL CK 0107

In the Delhi High Court

Case No : Civil Writ Petition No. 8112 of 2002

Jagdish Trading Co. APPELLANT

Vs

Sales Tax Appellate Tribunal and Another RESPONDENT

Date of Decision : 07-08-2003

Acts Referred:

Citation : (2004) 138 STC 346

Hon'ble Judges : Madan B. Lokur, J;D.K. Jain, J

Bench : Division Bench

Advocate : Rajesh Jain, for the Appellant; K.D. Tripathi, for the Respondent

Judgement

1. An order dated November 29, 2002 passed by a learned single Member of the Appellate Tribunal Sales Tax, Delhi ("the Tribunal" in short) in appeal No, 202/ STT/2002-03, pertaining to the assessment year 1999-2000 (Local), is under challenge in this writ petition.

2. By the impugned order the Tribunal has directed the petitioner to deposit a sum of Rs. 1 lakh under the Central Sales Tax Act, (for short, "the Central Act") and furnish a security to the satisfaction of the assessing authority in the sum of Rs. 20,000 under the Delhi Sales Tax Act, 1975 (for short, "the local Act") as a condition precedent for entertainment of its appeal before the first appellate authority.

3. The order is assailed by learned counsel for the petitioner mainly on the ground that the afore-noted direction by the Tribunal to the petitioner to deposit a sum of Rs. 1 lakh under the Central Act is ex facie illegal as no appeal had been preferred by the petitioner under the Central Act before the Tribunal, in which such an order could be passed. It is submitted that what was challenged before the Tribunal was the order, dated October 25, 2002, passed by the Deputy Commissioner, directing the petitioner to deposit a sum of Rs. 50,000 as a condition precedent for entertainment of its appeal under the local Act.

4. The factual position, as noticed above, is not disputed by learned counsel for

the respondent No. 2.

5. In view of the above, we find it difficult to comprehend as to how the Tribunal got the jurisdiction to pass an order under the Central Act when no appeal or an application for stay of demand under the said Act was pending before it. As noticed above, the Tribunal was required to examine only the validity of the order dated October 25, 2002 passed by the Deputy Commissioner under the local Act and no other order.

6. Having regard to these facts, we are unable to sustain the order passed by the Tribunal, directing the petitioner to deposit a sum of Rs. 1 lakh under the Central Act. Consequently the writ petition is allowed and the impugned order to that extent is set aside.

7. The writ petition stands disposed of accordingly, with no order as to costs.