(2013) 07 RAJ CK 0183

In the Rajasthan High Court

Case No : Sales Tax Revision Petition No. 56 of 2006

M/s. Ganesh Woolen APPELLANT

Vs

The District Level Screening Committee and Others RESPONDENT

Date of Decision : 01-07-2013

Acts Referred:
Limitation Act, 1963 — Section 5

Citation : (2014) 74 VST 30

Hon'ble Judges : Jainendra Kumar Ranka, J

Bench : Single Bench

Advocate : Resham Bhargava, for the Appellant; Tanvi Sahay and Mr. Pranay Jhala, for Mr. R.B. Mathur, for the Respondent

Judgement

Jainendra Kumar Ranka, J.—This revision petition has been filed by the petitioner assessee, u/s 86 of the Rajasthan Sales Tax Act, 1994 (In short "the Act'') against the order dated 3.9.2004 passed by the Rajasthan Tax Board, Ajmer (in short "the Board'') in Appeal No. 111/2004, whereby the claim of the petitioner was dismissed in appeal, wherein the District Level Screening Committee, Ajmer, (in short ''The Committee'') rejected the application of the petitioner. The claim of the petitioner is that the petitioner is dealing in the business of manufacturing of Woolen Yarn and for that purpose, he took a land and also part of a building on lease from one M/s. Khatri Wool and Spinning Mills, Beawar, on lease for a period of 15 years and it was by way of a registered lease deed. The deed was registered with the Sub Registrar, Masuda, District, Ajmer. An application was moved before the Committee, however, the Committee rejected its application vide its order dated 28.3.2003. The appeal was also dismissed by the Board.

2. Hence, this revision petition.

3. Learned counsel for the petitioner Mr. Resham Bhargava, submitted that the Committee was not justified in rejecting the claim of the petitioner mainly on the premise that the petitioner did not fulfil the conditions laid-down under the Sales Tax Incentive Scheme, 1998 (in short ''The Scheme'') as neither the petitioner

was having its own land nor the land taken by it on lease was a land which was not duly converted by getting prior permission of Competent Authority/SDO. The Committee wrongly came to the conclusion that the permission is required to be obtained for carrying on the business on the aforesaid land taken on lease from a Competent Authority, therefore, in the light of the above, the claim of the petitioner was wrongly rejected. Learned counsel for the petitioner in this regard relied upon the judgments of this Court rendered in the Case of Daga Chemicals Vs. State and Another, and also the Case of Commercial Taxes Officer Vs. Ganpati Marbles and Rajsamand Granites Pvt. Ltd. and Another, and submitted that the facts of the aforesaid judgments are squarely applicable to the facts of the present case and even on rented premises claim is allowable. Thus, he submitted that even the Tax Board is unjustified in dismissing the appeal in the light of judgments of this Court.

4. Learned counsel Ms. Tanvi Sahai and Mr. Pranay Jhala, appearing on behalf of Mr. R.B. Mathur, learned counsel for the respondent submitted that finding of the Committee as well as the order of Tax Board, is justified one and after considering the over all facts and circumstances of the case, a reasonable order has been passed. They further submitted that it is a finding of fact and no question of law is involved.

5. I have considered the arguments advanced by the learned counsel for the parties and have perused the impugned orders as also the order of the District Level Screening Committee. I am of the view that both the Tax Board as well as the District Level Screening Committee were justified in rejecting the claim of the petitioner-assessee. The committee observed that the petitioner had taken the property on lease which is of industrial in nature. It is further observed that the application moved by the petitioner was filed belatedly by 66 days and no plausible cause was shown for filing the application at a belated stage. No application for even condoning the delay in filing the application was filed. On an enquiry by the Committee Members from Mr. Kushal Das Khatri, the authorized representative about delay, he simply conveyed that in June, 2002 he was not well but the said claim was not even supported by any evidence. It was further observed that the land was converted in the year 1994 and there was specific direction while converting the land that prior permission will have to be taken from the Competent Authority but the same was not obtained, therefore, the application was rejected. The Tax Board has also considered this issue at length and further while rejecting the claim of the petitioner came to the conclusion that not only the above requirements were not complied with, but it was also held while rejecting the claim of the petitioner that the requirements had to be fulfilled according to the terms and conditions and the criteria laid down for fulfilling the terms and conditions in the Scheme, in case, one wishes to avail the benefits conferred under a particular Scheme, the Tax Board accordingly confirmed/approved the findings given by the Committee and rightly dismissed the Appeal.

6. I have also gone through the judgments relied upon by the learned counsel for the petitioner and in my view, the judgments are distinguishable to that of present case in as much as it is categorically observed in the present case that there was requirement of obtaining prior permission of conversion of land from the Competent Authority/SDO but no such permission was obtained. Be that as it may, the industry can run in a rented premises, but if there is a stipulation in the concerned Scheme or order of conversion of land that prior permission is necessary and prior permission ought to have been taken before running the industry. According to me when there is specific direction then it had to be complied with for the satisfaction of the Competent Authority/SDO which was necessary. Therefore, the facts of the Case of M/S. Daga Chemicals Vs. State & Anr. (Supra), is not applicable to the facts and circumstances of the instant case. So far as case of Commercial Taxes Officer, Rajsamand Vs. M/s. Ganpati Marbles & Granites Pvt. Ltd. & Anr. (Supra), is concerned, the industrial unit of Shrinath Marbles and Minerals was closed down and its registration was surrendered to the Industry Department of the State Government. The respondents therein purchased the land of M/s. Shrinath Marbles and Minerals and established a new industrial unit and also a different business to that on transfer of Company. It was further observed in the above case that the State Level Screening Committee and the District Level Screening Committee had rejected the claim of the respondent without application of mind and the Tax Board in that case after considering the facts and circumstances of the case, came to the conclusion which was approved by this Court. However, as pointed out herein above, in the present case, the Committee has passed a detailed order after examining the facts and circumstances of the case not only on the fact that there was no plausible reason for moving the application at a belated stage and even without application u/s 5 of the Limitation Act, for condoning the delay in filing the case and secondly, prior permission was not obtained from the Competent Authority/ SDO therefore, according to me, the Tax Board has correctly rejected the claim of the petitioner.

7. In view of the above facts and circumstances of the case, no irregularity, impropriety or illegality has been committed by the Tax Board, while passing the order impugned and this is a finding of fact and no question of law is involved in this matter. Therefore, no interference is called for by this Court in this Sales Tax Revision petition. Resultantly, the Sales Tax Revision Petition is dismissed. No order as to costs.

