(2011) 12 RAJ CK 0034

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2075 of 2008

M/s Raj Tea Traders APPELLANT

Vs

CTO (A/E), Bikaner and Another RESPONDENT

Date of Decision : 08-12-2011

Acts Referred:

Citation : (2011) 12 RAJ CK 0034

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Judgement

Hon''ble Dr. Justice Vineet Kothari

1. Heard learned counsels.

2. The petitioner assessee has challenged the show cause notice Annex.3 dated 8/11/2004 for Assessment Year 2001-02 by which the respondent Assessing Authority - Assistant Commissioner, Anti Evasion, Commercial Taxes Department, Bikaner gave a show cause notice to the petitioner assessee that the value of goods imported from out of the State, namely; Tea, against Form ST 18A was not correctly recorded in the Books of Accounts and the value of insurance premium paid was also to be treated as purchase value of such goods imported against From `F'' prescribed under the Central Sales Tax (Registration & Turnover) Rules, 1957 & why such difference may not be taxed in the hands of present petitioner assessee. The petitioner assessee filed preliminary reply to the said notice vide Annex.4 dated 15/12/2004 and Annex.5 dated 5/1/2005 and the only request made to the Assessing Authority was to supply the reasons, adverse material to the petitioner and also allow inspection of the record available with the Assessing Authority so that assessee could file appropriate reply in the matter. Learned counsel for the petitioner submitted that when nothing was done, the petitioner assessee was constrained to approach this Court by way of present writ petition. Reply to the writ petition has also been filed by the respondent Department in which the preliminary objection as to maintainability of the writ petition has also been raised.

3. As far as non-supply of reasons and adverse material and not allowing inspection of record is concerned, learned counsel for the Revenue fairly submits that same would be supplied to the petitioner assessee.

4. In view of this statement of learned counsel for the Revenue, there is no reason to hold that the Assessing Authority would not supply the reasons and adverse material on the basis of which the impugned show cause notice was issued by him. The petitioner assessee is expected to file his reply to the show cause notice and the necessary adjudication can always be made by the Assessing Authority. The Rajasthan Sales Tax Act, 1994, as substituted by the Rajasthan Value Added Tax Act, 2003 provides for a complete mechanism of alternative remedy and, therefore, it would be premature to decide the validity of the show cause notice in the present writ petition.

5. Consequently, with the aforesaid observations, the present writ petition is disposed of and the petitioner assessee may appear before the Assessing Authority, in the first instance, on 20/12/2011 and Assessing Authority shall supply the available material for reopening the assessment to him and upon this the petitioner assessee will file reply to the show cause notice.

