Rajasthan Tax Board, Ajmer

M/s Shri Jain Trading Company,
101/95, Agrawal Farm,
Mansarovar, Jaipur   ...Appellant

VERSUS

Assistant Commercial Taxes Officer,
Ward-VI, Circle-L, Jaipur   .....Respondent

S.B.
SHRI OMKAR SINGH ASHIYA, MEMBER

Present :

Shri Vikram Gogra, Advocate   for Appellant

Shri Ramkaran Singh,
Dy. Govt. Advocate   for Respondents
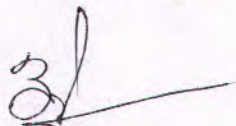
Dated : 18.04.2018

JUDGMENT

1. This appeal has been filed by the appellant dealer (hereinafter called the "appellant"), against order of the Deputy Commissioner (Adm) III, Commercial Tax Department, Jaipur (hereinafter called the "DC (Adm)") dated 30.11.2017, who rejected the application of the appellant to re-open the ex-parte assessment as passed by the Assistant Commercial Taxes Officer, Ward-6, Circle-L, Jaipur (hereinafter called the "assessing officer" or "AO") dated 28.12.2016, under section 24(4) of the Rajasthan Valued Added Tax Act, 2003 (hereinafter called the "RVAT Act").

2. Brief facts leading to the present appeal are that the assessing officer finalized the assessment of the appellant for the year 2014-15 on ex-parte basis on 28.12.2016 and created a demand of Rs. 1,46,950/-. Aggrieved of this ex-parte order, the appellant moved an application u/s 34 of the RVAT Act before the DC (Adm), who vide his order dated 30.11.2017 rejected the same for the reason that despite giving sufficient opportunity, the dealer has
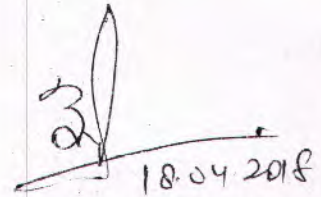
not appeared nor has filed any reply. Aggrieved of this order, the appellant has filed this appeal before the Rajasthan Tax Board u/s 83 of the RVAT Act.

3. The learned advocate appearing for the appellant submits that the appellant did not get any notice and if at all any notices were sent on the e-mail address as available with the department, the same could not be opened because appellant's accountant had left his work and the appellant is not conversant with the computer as well as the e-mails. He further submits that the Deputy Commissioner (Adm) has ignored this material fact and practical problems of smaller dealers, hence, he requests to set aside the impugned order and accept the appeal so that the matter can be re-determined at the level of the AO.

4. Learned Deputy Government Advocate appearing for the respondent Revenue contends that the notices were sent on e-mail to the appellant by the AO as well as the DC (Adm) but the appellant failed to appear before both the authorities, therefore, order of the DC (Adm) is just and proper and the appeal deserves to be rejected.

5. I have gone through the rival submissions and perused the available record. On perusal of the notices as issued in form VAT-14, do not specifically mention as to what is required from the dealer to submit in compliance of the notices, because all the sub-columns (1) to (10) of item no. 4(A) of these notices are left blank. Similarly, in item no. 4(B) of these notices though the personal attendance of the appellant has been required to adduce evidence under the Act, but except for the words 'ex-parte' nothing specific is mentioned as to why such ex-parte assessment has been proposed. So, it is found that the appellant has not been provided ample opportunity before levy of additional demand. Similarly, the DC (Adm) has also not appreciated the facts of the case and has summarily rejected the application.

6. In the facts and circumstances of the case as narrated above, the both the authorities have not exercised due caution- the AO while

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finalizing the assessment ex-parte and the DC (Adm) while disposing off the application for re-opening of the ex-parte assessment order, therefore, the orders of the authorities below deserves to be set aside.

7. Resultantly, the orders of the AO as well that of the DC (Adm) are set aside and the matter is remitted back to the Assessing Officer for deciding it afresh after giving due opportunity to the appellant. The appellant, in turn, is directed to appear before by A.O. on 18.06.2018 and to furnish the information/document as required by him.

8. Order pronounced.

18.04.2018

(Omkar Singh Ashiya)
Member

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