

RAJASTHAN TAX BOARD, AJMER

Appeal No. 1297/2015/Bhilwara.

M/s Jindal Saw Limited,
Bhilwara (Raj.)

--Appellant

Versus

1- Commercial Taxes Officer,
Anti Evasion, Bhilwara
2- Appellate Authority,
Commercial Taxes, Bhilwara

---Respondent

D.B.

Shri K.L. Jain, Member.

Shri M.L. Malviya, Member.

Present :

Shri M.L. Patodi

Advocate for the Appellants

Shri R.K. Ajmera

Dy. Govt. Advocate for the Respondents

Dated :- 18-09-2017

JUDGMENT

This appeal has been filed against the order of the Appellate Authority, Commercial Taxes, Udaipur dated 21-07-2015 whereby the order of assesment dated 08-01-2014 passed by the C.T.O, AE, Bhilwara (For short AA) for the first quarter of the assesment year 2013-14 U/s 25 of the Rajasthan Value Added Tax, 2003 (for short VAT Act,) was confirmed.

1. Brief facts of this case are that the learned assessing authority conducted a survey of the appellant company and found that the appellant has claimed input tax credit on the basis of some purchase bills of capital goods in which the name of buyer was shown as Jindal Saw Limited, New Delhi instead of Jindal Saw Limited, Bhilwara. The learned AA being of the view that the appellant has purchased the capital goods in the name of Head Office at Delhi so the ITC cannot be granted U/s 18 of the RVAT Act taking it as a transaction between a seller of Rajasthan & buyer at Delhi hence disallowed the claims. Being aggrieved by the order of the AA appellant filed an appeal before 1st Appellate Authority, who, after hearing the parties, disallowed it and upheld the order passed by the learned AA. Hence this second appeal presented by the appellant.

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Arguments of both the learned counsel for the parties heard and record of the case was also looked into.

2. Learned counsel for the appellant company argued that the Delhi office of the appellant company placed an order to M/s Metso Minireals India Pvt. Ltd., Alwar for supply of capital goods for its branch at Bhilwara with the direction that the material be dispatched to the factory at Bhilwara of the Appellant company. In pursuance of the supply order, the seller company at alwar dispatched the goods to the appellant company at Bhilwara through various bills charging RVAT @ 14% and on the basis of those bills appellant company claimed input tax credit in his quarterly returns & also declared the purchases in prescribed format of VAT 7A as well the seller company also had shown the sales in his return in form VAT 8A submitted to his assesing authority. The learned counsel argued further that the assesing authority erred in presuming the transaction of capital goods between the seller and appellant as an inter state sale on the basis of the address given in bills was Head Office of the company at Delhi and the TIN of Delhi Office were show in bills. He contended that the AA was known of by the facts that the bills were issued in the name of company's branch in Rajasthan and the TIN of Rajasthan was mentioned in the bills with the clear note of shipment of goods to Bhilwara site of the company, registered under the RVAT Act. During the hearing the learned counsel also showed all the alleged bills and said that everything was mentioned in the bills itself that the goods were sold from seller of Alwar to appellant company at Bhilwara. He argued that there was no irregularity in the transaction, on the basis of which the ITC can be denied as the goods purchased from a registered dealer of rajasthan was beyond doubt as well as the delivery was given to company's



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factory at Bhilwara. He submitted that also the seller had deposited the VAT in time. The learned counsel argued that the AA and appellate authority have grossly erred in their conclusion that the transactions were interstate transactions, as the goods were not at all moved from Rajasthan to any other state, which is the pre-condition in declaring a sale as interstate sale in CST Act, 1956.

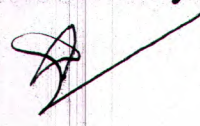
3. The learned counsel for appellant argued that the company has rightfully claimed the credit as the transaction of their purchases are fully covered U/s 18 of RVAT Act, and no violation of this provision was committed by the appellant.

4. The learned Deputy Government Advocate defended the orders of the AA.

5. We have carefully considered the arguments of both the learned counsel, gone through the facts of the case on record and also looked into the bills of purchases.

6. One thing distinctly emerge out on the perusal of the record along with the bills is that the capital goods were purchased by the appellant company who is registered at Bhilwara and the goods were sold by the seller Metso minerals India pvt. ltd. registered at Alwar, Rajasthan and goods were dispatched from Alwar to Bhilwara which is again within the state of Rajasthan and no issue is involved of any inter state movement from Rajasthan to Delhi. On persual of bills it is also found that the seller has issued the bills with the clear information about delivery at Bhilwara along with TIN of Bhilwara and the TIN of Delhi head office also.

7. The AA has made out this case only on the grounds that the bills were showing TIN of Delhi and payments were made by the appellant company from its head office. This kind of conclusion given by the assessing authority is completely wrong as a company may have many branches

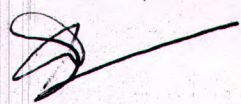


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in different parts of country with registration in different states and the Head Office of the company can place any order of supply for any branch in the country and can make payment for the purchases for its branches. The appellant company in Rajasthan purchased the capital goods from alwar and received those goods at Bhilwara and used in Bhilwara for manufacture of goods at Bhilwara, so they are fully entitled to take claim of ITC. The AA has mentioned that the order of purchase was given by The Head Office at Delhi and in purchase order issuing of 'C' form was also a condition so this transaction is an interstate transaction. This inference given by the ld. AA is completely wrong as all the bills and delivery of goods clearly show that these purchases are intra state purchases and there is no question of inter state sale and purchase as movement of goods was only within the state of Rajasthan. It will be appropriate to say that the learned assessing authority as well as Appellate Authority have failed to see the actual transaction of sale and purchase and they have just gone through into the purchase order and mode of payments which can very well be done by the head office of the company. In this instant matter what actual fact was to be seen was the actual nature of transaction done in sale and purchase of goods and it was undoubtedly clear that the purchases were made by the appellant from the registered dealer of Rajasthan and therefore assessee is entitled to claim and take benefit of input tax ~~credit~~ ^{credit} U/s 18 of VAT Act 2003.

8. In result, the appeal is allowed and the orders passed by the learned authorities below are quashed and set-aside. The assessing authority is directed to allow ITC claim after verification of deposit of tax.


(M.L. MALVIYA)
Member


(K.L. JAIN)
Member