

Rajasthan Tax Board, Ajmer

Appeal No. 1454/2007/Jhunjhunu

M/s Hindustan Copper Limited,
Khetri Nagar, District Jhunjhunu

...Appellant

VERSUS

Commercial Taxes Office,
Anti-Evasion, Jhunjhunu

...Respondent

S.B.

SHRI OMKAR SINGH ASHIYA, MEMBER

Present :

Shri Vivek Singhal,
Advocate

for Appellant

Shri N.K. Baid,
Dy. Govt. Advocate

for Respondent

Dated : 22.06.2018

JUDGMENT

1. This appeal has been filed by the appellant dealer (hereinafter called the "appellant"), against order of the Deputy Commissioner (Appeals), Commercial Tax Department, Bikaner (hereinafter called the "appellate authority") dated 22.06.2007, who party accepted the appeal against the provisional assessment order passed by Commercial Taxes Officer, Anti-Evasion, Jhunjhunu (hereinafter called the "assessing officer" or "AO") dated 28.02.2006, under section 16(3) and 12 of the Rajasthan Tax on Entry of Goods into Local Areas Act, 1996 (hereinafter called the "Act").
2. Brief facts leading to the present appeal are that the appellant is engaged in the business of mining and manufacturing of copper. During the year 2005-06, the appellant brought some goods namely the Forklift Trucks, Computers, TMT Bars and LPG into the local area of the State, but did not pay any entry tax

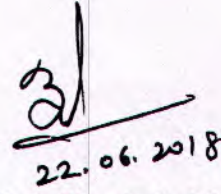


thereupon. The assessing officer after issuing the notice under section 16(3) and 12 of the Act and taking reply of the appellant, imposed entry tax amount to Rs. 3,52,901/-, penalty under section 12 @ 1.5 times of the tax Rs. 5,29,352/-.

3. Aggrieved of the assessment order, the appellant preferred an appeal before the appellate authority who upheld the levy of tax on the goods brought into the local area but set aside the penalty under section 12 of the Act. Aggrieved of the appellate order, this appeal has been filed before the Tax Board.
4. Learned advocate appearing for the appellant submits that in the memorandum of appeal, he has challenged to levy of Tax on Forklift Trucks and LPG. He submits that the goods in question i.e. 'Forklift Trucks' are essentially used within the factory premises for shifting of the raw material or loading of the finished goods for transportation into the vehicles, therefore, the same cannot fall in entry no. 29 of the notification dated 24.03.2005, which pertains to "Hydraulic Excavators (Earthmoving and Mining Machinery), Mobile Cranes and Hydraulic Dumpers". So, he requests to set aside the tax and accept the appeal.
5. The learned deputy government advocate appearing for the respondent-Revenue brought to notice this fact that the assessment order in question was passed under section 16(3) of the Act which essentially pertains to the provisional assessment for non-submission of the monthly statements as prescribed under sub section (1) of section 16 and thereafter the assessing officer has completed the final assessment under section 12(4) of the Act vide order dated 29.01.2009 by merging the provisional assessment order dated 28.02.2006, as withstood after the appellate order dated 22.06.2007, therefore, the present appeal has become infructuous.



6. I have carefully gone through the submission from both the parties and perused the relevant record. As the final assessment order has been passed and the provisional assessment order dated 28.02.2006 has been merged into the order dated 29.01.2009, therefore, the present appeal has become infructuous, hence liable to be rejected.
7. Accordingly, the appeal being infructuous, is rejected.
8. Order pronounced.


22.06.2018

(Omkar Singh Ashiya)
Member