

**RAJASTHAN TAX BOARD, AJMER**

**Appeal No. 1593/2015/Bundi**

M/s Bunge India Pvt. Ltd.  
Ramganj Balaji, Distt. Bundi.

-----Appellant

Vs

Assistant Commissioner,  
Circle- Bundi

-----Respondents

Appellate Authority,  
Ajmer

**Appeal No. 1996/2016/Kota**

M/s Instrumentation Ltd.  
Jhalawar Road, Kota

----Appellant

Vs

Commercial Taxes Officer,  
Special Circle-I, Kota

-----Respondents

Appellate Authority,  
Commercial Taxes, Ajmer

**D.B.**

**Shri Rajeev Choudhary, Member**  
**Shri Omkar Singh Ashiya, Member**

**Present**

Shri M.L Patodi, Advocate  
Shri. Anil Pokhrna,  
Dy. Govt. Advocate

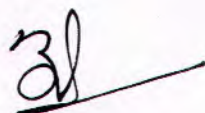
-----For Appellant

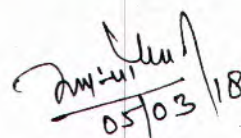
-----For Respondent

**Dated: 05.03.2018**

**Judgment**

- 1- These appeal have been filed by the appellant dealers (hereinafter called the "appellants") against order of the Appellate Authority, Commercial Taxes, Ajmer (hereinafter called the "appellate authority") who vide his orders dated 31.07.2018 in appeal no. 04/CST/14-15/Bundi and dated 09.06.2016 in appeal no. 08/CST/15-16/Kota, has confirmed orders of the Assistant Commissioner, Circle Bundi and the Commercial Taxes Officer, Special Circle- Kota (hereinafter



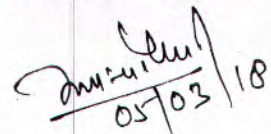
  
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called the "assessing authorities") wherein the declaration forms submitted after the time limit as prescribed under rule 12(7) of the Central Sales Tax (Registration & Turnover) Rules, 1957 (hereinafter referred as the "CST Rules") were not accepted. As a common issue is involved in both the appeals, therefore, the same are disposed off by a common order. Copy of the order be placed on each relevant file.

- 2- Brief facts leading to the present appeal is that the assessing authorities while finalizing the assessment for the year of 2011-2012, 2012-2013, u/s 9 of the Central Sales Tax, 1956 (in short "CST Act") has levied additional tax amounting on declaration forms 'C' and 'F' as the same could not be submitted within the time limit as stipulated in rule 12(7) of the CST Rules.
- 3- Learned advocate appearing for the appellant submitted that the State Government has amended the Rule 21 of the RVAT Rules, 2006 and as the procedure for assessment etc. under the CST Act are to be followed as of the local State Tax law, therefore the said forms should have been accepted by the assessing authority. He referred a Tax Board judgment: Multimetals Ltd. Vs Commercial Tax Officer, Circle-B, Kota, in appeal no. 1840/2013 order dated 18.01.2018 and further requests to accept the appeal.
- 4- Learned DGA has supported order of the appellate authority as well as that of the assessing authority.
- 5- We have carefully gone through the contentions of the rival parties and perused the record as well. The only issue involved for consideration is related to non-submission of the declaration forms 'C' & 'F' before the assessing authority within the stipulated time and whether the same can be submitted afterwards, and if submitted after the time limit, should those be accepted by the assessing authority ?



  
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6- It is worth mentioning that section 9 of the CST Act deals with "Levy and collection of tax and penalties" and it will be useful to have a look at sub-section (2) of section 9, which is as under:-

*"(2) Subject to the other provisions of this Act and the rules made thereunder, the authorities for the time being empowered to assess, re-assess, collect and enforce payment of any tax under general sales tax law of the appropriate State shall, on behalf of the Government of India, assess re-assess, collect and enforce payment of tax, including any "interest or penalty," payable by a dealer under this Act as if the tax or "interest or penalty" payable by such a dealer under this Act is a tax or "interest or penalty" payable under the general sales tax law of the State; and for this purpose they may exercise all or any of the powers they have under the general sales tax law of the State; and the provisions of such law, including provisions relating to returns, provisional assessment, advance payment of tax, registration of the transferee of any business, imposition of the tax liability of a person carrying on business on the transferee of, or successor to, such business, transfer of liability of any firm or Hindu undivided family to pay tax in the event of the dissolution of such firm or partition of such family, recovery of tax from third parties, appeals, reviews, revisions, references, "refunds, rebates, penalties," "charging or payment of interest," compounding of offences and treatment of documents furnished by a dealer as confidential, shall apply accordingly."*

7- Rule 21 of the RVAT Rules, 2006 provides for the procedure relating to obtaining and furnishing of declaration forms. The State Government has amended rule 21 vide notification no. F.12(79)FD/Tax/2014-pt-III-36 dated 29.06.2017 wherein it has been provided that the dealer may furnish the declaration forms or certificates upto 31 March, 2018 in the



  
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cases where assessment were completed upto 30 June, 2017.

The said amended rule is reproduced here under:-

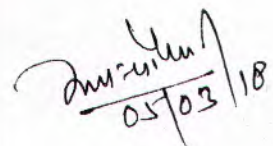
"3. Amendment of rule 21.- In sub-rule(1) of rule 21 of the said rules,-

(a) the existing second proviso shall be substituted by the following namely:-

"Provided further that for the assessment completed upto June 30,2017, the dealer may furnish the declaration Forms or certificates upto March 31,2018.";and"

- 8- The Rajasthan Tax Board in appeal no 1728/2011/Rajsamand M/s Rockwell Micron Minerals Pvt. Ltd. order dated 11.05.2012 and appeal no 1499/2012/Jaipur CTO Vs Alembic Ltd, order dated 23.04.2015, has unequivocally held that the extension of time limit for submission of declaration form/certificates under the RVAT Act, 2003 shall also be applicable for declaration forms/certificates prescribed under the Central Sales Tax Act, 1956. The same view has been followed by the Division Bench of the Tax Board in appeal no. 1840/2013/Kota, order dated 18.01.2018 in the case of M/s Multimetals Ltd. Vs Commercial Tax Officer, Circle-B, Kota. Further, the Commissioner, Commercial Taxes, Rajasthan (hereinafter referred as the "Commissioner"), relying on the above referred RTB judgments has issued Circular no. 09/2016-2017 dated 08.02.2017 wherein the assessing authorities have been directed to accept the declaration forms/certificates prescribed under the CST Act, in the extended period for submission of the forms.
- 9- Accordingly, it is held that in light of the above referred Tax Board judgments and amendment in rule 21 of the RVAT Rules, dated 29.06.2017, the dealer is entitled to submit the declaration forms/certificates related to the CST Act as well,

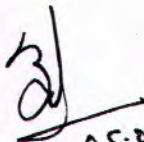


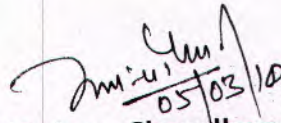
  
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upto 31.03.2018, for the assessments completed upto 30.06.2017.

- 10- If the appellants have already submitted or submit these forms/certificates upto 31.03.2018 before their assessing authorities, then the same shall be considered if found correct, in light the said amendment in rule 21 of the RVAT Rules and the Commissioner Circular dated 08.02.2017.
- 11- In light of the above observations, both the appeals are accepted.
- 12- Order pronounced.

  
05.03.2018  
(Omkar Singh Ashiya)  
Member

  
05/03/18  
(Rajeev Choudhary)  
Member