

Rajasthan Tax Board, Ajmer

Appeal No. 1635/2015/Kota

M/s Dy. Narcotics Commissioner,
Narcotics House, Kota

...Appellant

VERSUS

Assistant Commissioner,
Special Circle-II, Kota

Appellate Authority,
Commercial Taxes, Ajmer

.....Respondents

D.B.

SHRI RAJEEV CHOUDHARY, MEMBER
SHRI OMKAR SINGH ASHIYA, MEMBER

Present :

Shri M.L. Patodi, Advocate

for Appellant

Shri Anil Pokhrana,
Dy. Govt. Advocate

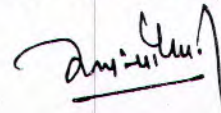
for Respondents

Dated : 18/05/2018

JUDGMENT

1. This appeal has been filed by the appellant dealer (hereinafter called the "appellant") against order of the Appellate Authority, Commercial Taxes, Ajmer dated 09.12.2016 who rejected the appeal against order of the Assistant Commissioner, Special Circle-II, Kota, (hereinafter called the "assessing officer" or "AO") dated 24.05.2014 passed under section 55 of the Rajasthan Value Added Tax Act, 2003 (hereinafter called the "RVAT Act") read with Section 9 of the CST Act.
2. Brief facts leading to the present appeal are that the assessing officer passed the assessment order for the year 2010-11 on 13.02.2013 and created the demand for which the demand notice was served to the appellant on 21.02.2013, but the

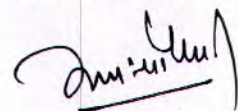




appellant did not deposit the demand within the stipulated time, therefore, the AO while passing the order under section 55 of the Act read with section 9 of the CST Act, created a demand of Rs. 29,89,752/- for interest leviable under the Act. Being aggrieved of the said order, the appellant preferred an appeal before the appellate authority who vide his order dated 21.07.2015 confirmed the levy of interest and rejected the appeal. Aggrieved of this appellate order, the appellant has preferred the appeal u/s 83 of the RVAT Act, before the Tax Board.

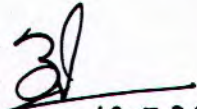
3. Learned counsel for the appellant has not though pressed for the appellant's original challenge to the levy of interest on late deposit of the demand, however, he submits that the AO has not calculated the interest correctly, so he requests to direct the authorities below to re-calculate the interest correctly and in support of his argument he submitted a calculation sheet to prove his point.
4. Learned Deputy Government Advocate appearing for the respondent revenue submits that the levy of tax pertaining to the year 2010-11 was confirmed by the Rajasthan Tax Board and later by the Hon'ble Rajasthan High Court, therefore, no issue whatsoever remains to be decided now and the AO has rightly calculated the interest for delayed payment of the demand. He supports orders of the lower authorities and requests to reject the appeal.
5. Heard the learned counsels for both the parties and also perused the relevant record. It is worth mentioning that the interest in question pertains to late deposit of the demand for the year 2010-11 as created vide AO's order dated 13.02.2013 and the Rajasthan Tax Board has already rejected appeal of the appellant on the issue in appeal no. 727/2014/Kota, order dated

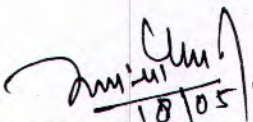




08.03.2017. On a similar issue, for the A.Y. 2006-07 the Hon'ble Rajasthan High Court has dismissed the Revision Petition of the appellant (SB STR 94/2014 D/o 08.12.2016) so the demand as created in that order was confirmed by both the appellate forums as well as by the Hon'ble High Court, therefore, the imposition of interest on delayed deposit of that demand can't be questioned, so on that count the appeal deserves to be rejected, hence rejected.

6. So far as the calculation inaccuracies as pointed out by the learned advocate for the appellant is concerned, though the calculation of delay in number of days is identical as arrived at by the AO as well as submitted by the appellant before us, but there appears to be significant difference in the figures of interest as determined by the AO and as per the calculation sheet submitted by the appellant, i.e. Rs. 29,89,752 and Rs. 27,17,167 respectively. For this reason, the matter is remanded back to the AO to re-calculate the interest amount as per the then prevailing rate of interest as notified by the State Government, after taking into consideration the calculation as submitted by the appellant.
7. The AO shall dispose off the matter within a period of two months from the date of this order. The appellant shall appear before the AO on 25.06.2015 and submit the calculation of interest as per his version.
8. Accordingly, the appeal is partly accepted and the matter is remanded back to the assessing officer for calculation of the interest afresh.
9. *Order pronounced.*


18-5-2018
(Omkar Singh Ashiya)
Member


18/05/18
(Rajeev Choudhary)
Member