

Rajasthan Tax Board, Ajmer

Appeal No. 574/2017/Kota

M/s Chambal Fertilizers &
Chemicals Ltd., 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

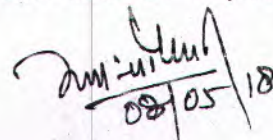
Dated : 08/05/2018

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 07-09.2015 passed under section 53(4) of the Rajasthan Value Added Tax Act, 2003 (hereinafter called the "RVAT Act").
2. Brief facts leading to the present appeal are that the assessing officer passed the order for the year 2011-12 on 17.01.2014 and allowed a refund of Rs. 4,55,40,796/-, however, the appellant filed an application before the A.O. and requested to grant the interest on this refund amount from the date of deposit i.e.


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01.04.2012 till the date of actual refund. However, the A.O. passed the interest order on 07.09.2015 and sanctioned interest from 01.05.2013 to 30.04.2015. Aggrieved of this order, the appellant preferred an appeal before the appellate authority who vide his order dated 09.12.2016 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 submits that the appellate authority as well as the AO should have allowed his request to grant interest from the date of its actual deposit. He, therefore, requests to accept the appeal.
4. Learned Deputy Government Advocate appearing for the respondent revenue supported 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 and gone through the relevant~~ provisions for grant of interest. In this regard, it would be appropriate to peruse Section 53(4) of the RVAT Act as prevalent during the year 2011-12 (as amended by the Rajasthan Finance Act, 2011 w.e.f. 15.04.2011), which is as follows:-

"(4) An amount refundable under this Act shall be refunded within thirty days from the date on which it becomes due and if such amount is not refunded within the aforesaid period of thirty days, it shall carry interest with effect from the date of expiry of the aforesaid period up to the date of payment, at such rate s may be notified by the State Government."

From bare perusal of this sub section, it is abundantly clear that the base date for calculation of the interest on refund is thirty days from date on which such refund become due, and as to


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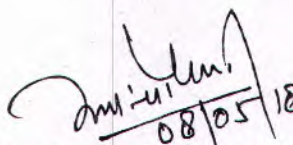
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when such refund becomes due, is spelt out under section 17(2) of the Act, which is as under:-

"(2) Where the net tax payable under sub-section (1) has a negative value, the same shall be first adjusted against any tax payable or amount outstanding under the Central Sales Tax Act, 1956 (Central Act No. 74 of 1956) or under this Act or the repealed At and the balance amount if any, shall be carried forward to the next tax period or periods. In case of the dealer claims refund of the balance amount, if any, at the end of the year, the same shall be granted only after the end of the immediately succeeding year however the Commissioner after recording reasons for doing so may, by a general or specific order, direct to grant such refunds even earlier."

6. On conjoint reading of section 53(4) and section 17(2) of the Act it becomes vividly clear that for the assessment year 2011-12, the interest, if any, on the refundable amount shall be calculated after 30 days from the end of the immediately succeeding year. So, for the year 2011-12, the immediately succeeding year ends on 31.03.2013 and adding 30 days to this date, the interest entitlement becomes due only from 01.05.2013.
7. In light of the above mentioned legal position, it is held that the AO has rightly calculated the interest payable on the refund amount from 01.05.2013 and the appellate authority has rightly confirmed the same.
8. Accordingly, the appellate order is confirmed and appeal is rejected.
9. Order pronounced.


08.05.2018
(Omkar Singh Ashiya)
Member


08/05/18
(Rajeev Choudhary)
Member