

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAI PUR

O R D E R

S. B. SALES TAX REVISION PETITION NO. 142/2011
ASSISTANT COMMERCIAL TAXES OFFICER, ALWAR
Vs.
M/S SUBHASH & ANR.

DATE: 30. 06. 2011

HON'BLE MR. JUSTICE NARENDRA KUMAR JAIN

Mr. R. B. Mathur, for the petitioner.

Heard the learned counsel for petitioner.

2. Petitioner has preferred this revision petition challenging the impugned order dated 04.09.2008 passed by the Rajasthan Tax Board, Ajmer, whereby petitioner's appeal has been dismissed.

3. I have considered the submissions of learned counsel for petitioner in the light of reasons assigned by the Deputy Commissioner (Appeals) as well as Rajasthan Tax Board, Ajmer for setting aside the order of Assessing Officer levying penalty against assessee under Section 78(10-A) of the Rajasthan Sales Tax Act, 1994 (for short 'the Act of 1994').

4. Learned counsel for petitioner does not dispute that all the required documents, as per provisions of Section 78(2)(b) of the Act of 1994, were available and produced at the time of checking of vehicle/goods and required tax had already been paid by the assessee. The Assessing Officer levied penalty in the present case only on the ground that seal of check post of State of Rajasthan on the documents was not there.

5. This Court considered the said question in detail in S. B. Sales Tax Revision Petition No. 179/2010- Assistant Commercial Taxes Officer, Bhiwadi Vs. M/s Satveer Yadav, decided on 24.11.2010, and also relied upon the judgment of Division Bench of this Court in State of Rajasthan & Another Vs. Tajinder Pal, (2003) 6 Tax Update, Part-3, Page 84 and held that so far as seal of check post is concerned, the same is not a mandatory requirement, as per provisions of Section 78(2)(b) of the Act of 1994, as these provisions are not mandatory and are directory in nature. Therefore, the present case is squarely covered by the decision of this Court in Assistant Commercial Taxes Officer, Bhiwadi Vs. M/s Satveer Yadav's

case (supra).

6. In view of above discussions, I do not find any merit in this revision petition and the same is, accordingly, dismissed in limine.

(NARENDRA KUMAR JAIN), J.

/KKC/

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAI PUR

ORDER

S. B. CIVIL MIS. STAY APPLICATION NO. 1902/2011
IN

S. B. SALES TAX REVISION PETITION NO. 142/2011
ASSISTANT COMMERCIAL TAXES OFFICER, ALWAR
Vs.
M/s SUBHASH & ANR.

DATE: 30. 06. 2011

HON'BLE MR. JUSTICE NARENDRA KUMAR JAIN

Mr. R. B. Mathur, for the petitioner.

Since the revision petition itself has been dismissed, therefore, this stay application does not survive and the same also stands dismissed.

(NARENDRA KUMAR JAIN), J.

/KKC/