

Tata Motors Ltd. Vs. Central Sales Tax Appellate Authority & Ors.

Civil Appeal No. 6450 of 2012

2022-01-01 | M.R. Shah, J.

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Full judgment text

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M.R. Shah, J.

1. Feeling aggrieved and dissatisfied with the impugned order dated 29.06.2009 passed by the Central Sales Tax Appellate Authority, New Delhi (hereinafter referred to as the 'Appellate Authority') in Appeal No. 330/CST/2008, by which, though the transaction/sales of buses effected through RSO, Vijayawada sold to Andhra Pradesh State Road Transport Corporation (for short, 'APSRTC') were found to be in the nature of inter-state, no further consequential order has been passed by the Appellate Authority directing to adjust the amount of tax paid on the aforesaid transaction against the tax to be paid to the State of Jharkhand, the original appellant - Tata Motors Limited has preferred the present appeal.

2. We have heard Shri Amar Dave, learned counsel appearing on behalf of the appellant, Shri Mahfooz A. Nazki, learned counsel appearing on behalf of the State of Andhra Pradesh, Shri Arunabh Chowdhary, learned Senior Advocate appearing on behalf of the State of Jharkhand and Shri N. Venkataraman, learned Additional Solicitor General of India along with Shri Arijit Prasad, learned Senior Advocate appearing on behalf of the Union of India.

3. At the outset, it is required to be noted and it is not in dispute that with respect to transaction in question, namely, sales effected through RSO, Vijayawada with respect to vehicles/buses sold to APSRTC, the sale/s is/are found to be in the nature of inter-state sale/s. In that view of the matter, the appellant - Tata Motors Limited was liable to pay central sales tax to the State of Jharkhand. However, treating the sale as stock transfer, the appellant/its representative had paid the tax on the aforesaid transaction to the State of Andhra Pradesh which is not leviable by the State of Andhra Pradesh. Therefore, the amount of central sales tax recovered by the State of Andhra Pradesh is required to be transferred to the State of Jharkhand and the same is required to be adjusted towards the amount of tax to be paid to the State of Jharkhand.

4. At this stage, it is required to be noted that prior to insertion of Section 22(1B) to the Central Sales Tax Act, 1956 (hereinafter referred to as the 'Act 1956'), there was no provision by which the Appellate Authority could have issued directions for refund of the tax collected by the State which has been held by the Appellate Authority to be not due to that State, or alternatively, direct that State to transfer the refundable amount to the State to which central sales tax is due on the same transaction.

However, by the Finance Act, 2010, Section 22(1B) has been inserted to Act 1956, which reads as under:

"Section 22(1B) - The Authority may issue direction for refund of tax collected by a State which has been held by the Authority to be not due to that State, or alternatively, direct that State to transfer the refundable amount to the State to which central sales tax is due on the same transaction. Provided that the amount of tax directed to be refunded by a State shall not exceed the amount of central sales tax payable by the appellant on the same transaction."

4.1 It is required to be noted that in the present case the transaction is for the period prior to insertion of Section 22(1B) to the Act 1956 and the impugned order has been passed by the Appellate Authority pre-insertion of Section 22(1B) to the Act 1956. Therefore, as such, it cannot be said that the Appellate Authority has committed any error in not issuing any direction which now is permissible under Section 22(1B) of the Act 1956. 5. However, at the same time, the State of Andhra Pradesh cannot retain the amount of central sales tax paid by the appellant on the transaction of sale effected through RSO, Vijayawada with respect to vehicles/buses sold to APSRTC.

Therefore, in line with Section 22(1B) of the Act 1956, the State of Andhra Pradesh is directed to transfer to the State of Jharkhand the amount of central sales tax deposited by the appellant with the State of Andhra Pradesh with respect to transaction in question, however, subject to the appellant submitting the proof of the amount of central sales tax already paid on the transaction in question, namely, sales effected through RSO, Vijayawada with respect to vehicles/buses sold to APSRTC treating the same as stock transfer sale.

After due verification, the amount of central sales tax so paid by the appellant with respect to the aforesaid transaction be transferred to the State of Jharkhand immediately on such verification and the State of Jharkhand is directed to adjust the same towards the central sales tax liability of the appellant on such transaction, namely, sales effected through RSO, Vijayawada with respect to vehicles/buses sold to APSRTC which are found to be in the nature of inter-state sale. The aforesaid exercise shall be completed within a period of three months from today.

6. The present appeal is disposed of in the aforesaid terms.

Item No. 1501

Tata Motors Ltd. Vs. Central Sales Tax Appellate Authority. & Ors.

[Civil Appeal No(s). 6450/2012]

This appeal was called on for pronouncement of judgment today.

For Appellant(s) Mr. Amar Dave, Adv. Ms. Nandini Gore, Adv. Ms. Neha Khandelwal, Adv. Ms. Manvi Rastogi, Adv. M/S. Karanjawala & Co., AOR

For Respondent(s) Mr. Nishe Rajan Shonker, Adv. Mrs. Anu K. Joy, Adv. Mr. Alim Anvar, Adv. Mr. Abraham C. Mathews, Adv. Mrs. Anil Katiyar, AOR Ms. Pragya Baghel, Adv. Mr. Jayant Mohan, AOR Mr. Abhay Pratap Singh, AOR Mr. K.S. Kulkarni, Sr. Adv. Mr. S. Dhanjay Reddy, Adv. Mr. Hitesh Kumar Sharma, Adv. Mr. T.Veera Reddy, Adv. Mr. T.N. Rama Rao, Adv. M/s. S. Sandhya Rao, Adv. Ms. C. K. Sucharita, AOR Mr. Milind Kumar, AOR Ms. Deepanwita Priyanka, AOR Mr. Nishe Rajen Shonker, AOR M/S. Corporate Law Group, AOR Mr. V. N. Raghupathy, AOR Mr. Kamal Mohan Gupta, AOR Mr. M. Yogesh Kanna, AOR Mr. T. S. Sabarish, AOR Mr. Aaditya Aniruddha Pande, AOR Mr. B. K. Satija, AOR Mr. Pukhramban Ramesh Kumar, AOR Mr. Karun Sharma, Adv. Ms. Anupam Ngangom, Adv. Mr. Wahengbam Immanuel Meitie, Adv. Mr. Bhakti Vardhan Singh, AOR Mr. Gopal Singh, AOR Mr. Ashok Kumar Singh, AOR Mr. Aravindh S., AOR Mr. Abbas. B, Adv. Mr. G.S. Makker, AOR Mr. Mahfooz A. Nazki, AOR Mr. Polanki Gowtham, Adv. Mr. Shaik Mohamad Haneef, Adv. Mr. T. Vijaya Bhaskar Reddy, Adv. Mr. K.V. Girish Chowdary, Adv. Ms. Rajeswari Mukherjee, Adv.

Hon'ble Mr. Justice M.R. Shah pronounced the reportable judgment of the Bench comprising His Lordship and Hon'ble Mr. Justice Krishna Murari.

The appeal is disposed of in terms of the signed reportable judgment. Pending application(s), if any, shall stand disposed of.

Source disclosure: Complete sanitized public judgment text retained for research. Official-primary replacement and later-history closure remain pending.

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