

**Neutral Citation No. - 2023:AHC:189778**

**RESERVED**

**Court No. - 5**

**Case :- SALES/TRADE TAX REVISION No. - 377 of 2022**

**Revisionist :- M/S Amrit Steels**

**Opposite Party :- Commissioner Commercial Tax**

**Counsel for Revisionist :- Suyash Agarwal**

**Counsel for Opposite Party :- C.S.C.**

**HON'BLE PIYUSH AGRAWAL,J.**

1. Heard Shri Suyash Agarwal, learned counsel for the revisionist and Shri B.K. Pandey, learned Additional Chief Standing Counsel for the State - respondent.
2. The present revisions have been filed against the judgement & order dated 26.05.2022 passed by Commercial Tax Tribunal, Muzaffar Nagar for the assessment year 2013 – 14 (Central) in Appeal No. 218/2019. The above-noted revision was admitted vide order dated 05.12.2022 on the following question of law:-
  - (i) *Whether on the facts and circumstances of the case the Tribunal was correct in giving benefit of Central Sale against I Form C No. 4930498 amounting to Rs. 2,75,094/- instead of Rs. 2,11,47,201/- received from M/s Yash Traders, Dhaulpur, Rajasthan mentioning the utilization of list of 23 sales invoices on the back of Form – C?*
3. The brief facts of the case are that the applicant made central sale amounting to Rs. 5,43,43,928/- of Form – C. The revisionist made central sale to one M/s Yash Traders, Rajasthan and claimed concession rate on the strength of Form - C no. 4930498. The said claim was stated to be covered by 23 invoices to the tune of Rs. 2,11,47,201/-. The Assessing Authority, at the time of framing the assessment order, sought a verification of the said form from its counterpart, i.e., sale tax authorities at Rajasthan, to which a

report was submitted that only one transaction having bill no. 45 for a sum of Rs. 2,75,094/. has been disclosed by the purchasing dealer. On getting the said information, the Assessing Authority, while passing the assessment order dated 19.01.2019, accepted the one sale made to the said party & granted concession, but imposed higher rate of tax on other 22 sales. Aggrieved against the said order, the applicant preferred appeals upto the Tribunal, which has been dismissed vide order dated 26.05.2022. Hence, this revision.

4. Learned counsel for the applicant submits that the revisionist made sale to a registered dealer against 23 invoices and the goods have been duly moved from the State of Uttar Pradesh to the State of Rajasthan. The revisionist, being a registered dealer, ought to have charged higher rate as prescribed under the Central Sales Tax Act, but since the purchasing dealer had furnished Form – C and on the strength of the said Form – C, concession rate was charged. Therefore, the revisionist has rightly charged 2% tax on its sales made to M/s Yash Traders, Rajasthan against 23 invoices. He further submits that the revisionist, being a prudent businessman, has seen Form – C as there was neither any cutting, nor overwriting and the same was duly issued by the Sales Tax authorities of the respective States, has accepted the same as the same bear the stamp of the issuing authority of Rajasthan.
5. He further submits that the revisionist has no control over the purchasing dealer as to whether he has shown its purchases in its books of account or as to how the goods are being used subsequently. In support of his submissions, he has placed reliance on the judgement of this Court in ***Star Paper Mills Limited Vs. Commissioner of Sales Tax*** [Sales Tax Revision No. 46/1991, decided on 20.10.2003] and prays for allowing the revision.
6. Per contra, learned ACSC supports the impugned order and submits that the revisionist has miserably failed to justify its sale

before the authorities below. The matter has been concluded by concurrent findings of fact against the revisionist as allegedly, sales made by the revisionist were not covered from Form – C. He further submits that the present proceedings are regular proceedings and the onus is upon the assessee to prove its claim of concession rate of tax. Form – C submitted by the revisionist was got duly verified and the information was received from the corresponding State, i.e., Rajasthan, that only one sale has been shown by the purchasing dealer in its books of account and the benefit of the same has been given and so far as other purchases are concerned, the same have rightly been disbelieved and higher rate of tax has been imposed. He prays for dismissal of the revision.

7. After hearing the learned counsel for the parties, the Court has perused the records.
8. It is admitted that the sales have been disclosed by the revisionist through 23 invoices for a sum of Rs. 2,11,47,201/- to M/s Yash Traders, for which one Form – C No. 4930498 has been submitted, but on verification from the corresponding State, i.e., Rajasthan, the information was given that the purchasing dealer has only shown purchase against one invoice no. 45 dated 12.12.2013 for a sum of Rs. 2,75,049/-. The benefit of concession has been given to the revisionist for the said invoice. So far as other 22 invoices are concerned, the same have been disbelieved.
9. The present proceeding is an original proceeding, i.e., the revisionist is claiming concession rate on the strength of Form – C. Once the corresponding State authority has sent information that only one purchase made by the purchasing dealer could be verified, the benefit of other purchases as alleged to be made by the revisionist against the said Form – C cannot be granted. The onus is upon the dealer to prove its case beyond doubt when the

dealer is claiming concession rate of tax. The said onus has not been discharged by the revisionist.

10. The judgement relied upon by the revisionist in *Star Paper Mills Limited* (supra) is of no aid to it as in the said case, in the first paragraph of the judgement itself it has been mentioned that reassessment proceedings for the assessment year 1984-85 have been initiated under section 21 of the U.P. Sales Tax Act. When the reassessment proceedings are being initiated, the burden is shifted to the Revenue, but in the original proceeding, the onus is upon the dealer to discharge beyond doubt the claim so made.
11. The Supreme Court in the case of *M/s I.T.C. Ltd. v. Commissioner of Central Excise, New Delhi and another*, [2004 (7) SCC 591] has held that the Assessing Authority is competent to scrutinize the certificate to find out the contents to be genuine and he is competent to inquire about the contents of the certificate to satisfy himself that the goods purchased are verifiable and once the truth of declaration on verification was not found to be correct, the benefit cannot be granted.
12. In view of the aforesaid facts & circumstances of the case, the revisionist has failed to discharge its burden by any cogent material.
13. The revision fails and is hereby dismissed.
14. The question of law is answered accordingly.

**Order Date :-04/10/2023**

*Amit Mishra*