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TATA MOTORS LIMITED

v.

CENTRAL SALES TAX APPELLATE AUTHORITY & OTHERS

(Civil Appeal No. 6450 of 2012)

B

SEPTEMBER 21, 2022

**[M. R. SHAH AND KRISHNA MURARI, JJ.]**

C *Central Sales Tax Act, 1956 – s.22(1B) – Finance Act, 2010 – Sales effected through RSO, Vijayawada w.r.t vehicles/buses sold to APSRTC were in the nature of inter-state sale – Appellant was thus liable to pay central sales tax to the State of Jharkhand however, treating the sale as stock transfer, it paid the tax on the aforesaid transaction to the State of Andhra Pradesh which is not leviable by it – Central Sales Tax Appellate Authority though found the transaction to be in the nature of inter-state sale but, passed no*

D *further consequential order directing to adjust the amount of tax paid on aforesaid transaction against the tax to be paid to the State of Jharkhand – On appeal, held: By the 2010 Act, s.22(1B) was inserted to the 1956 Act – Prior to the said insertion of s.22(1B), there was no provision by which the Appellate Authority could have*

E *issued directions for refund of the tax collected by the State which has been held by it to be not due to that State, or direct that State to transfer the refundable amount to the State to which central sales tax is due on the same transaction – In the present case, the transaction is for the period prior to insertion of s.22(1B) to the 1956 Act and the impugned order has been passed by the Appellate*

F *Authority pre-insertion of s.22(1B) to the 1956 Act – Thus, it cannot be said that it committed any error in not issuing any direction which now is permissible u/s.22(1B) of the 1956 Act – However, the State of Andhra Pradesh cannot retain the amount of central sales tax paid by the appellant on the transaction – Therefore, in line with*

G *s.22(1B), the State of Andhra Pradesh to transfer to the State of Jharkhand the amount of central sales tax deposited by the appellant w.r.t the transaction in question, subject to the appellant submitting the proof of the amount of central sales tax already paid thereon – State of Jharkhand to adjust the same towards the central sales tax liability of the appellant on such transaction.*

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CIVIL APPELLATE JURISDICTION: Civil Appeal No. 6450 of 2012. A

From the Judgment and Order dated 29.06.2009 of the Central Sales Tax Appellate Authority, New Delhi in Appeal No. 330/CST/2008.

Amar Dave, Ms. Nandini Gore, Ms. Neha Khandelwal, Ms. Manvi Rastogi for M/S. Karanjawala & Co., James P. Thomas,. Rohit Kumar Singh, Ravi Sagar, Advs. for the Appellant. B

N. Venkataraman, ASG, Arijit Prasad, Arunabh Chowdhary, Sr. Advs., V.C. Bharathi, H. R. Rao, M. K. Maroria, Mrs. Anil Katiyar, Nishe Rajen Shonker, Mrs. Anu K. Roy, Alim Anvar, Ashish Jha, Ms. Pragya Baghel, Jayant Mohan, Karma Dorjee, Dechen Wangdi Lachungpa, Ms. Adya Shree Dutta, Aniruddha Mahadevan Sethi, Abhay Pratap Singh, Ms. C. K. Sucharita, Milind Kumar, Ms. Deepanwita Priyanka, M/s. Corporate Law Group, V. N. Raghupathy, Md. Apzal Ansari, Kamal Mohan Gupta, Sabarish Subramanian, M. Yogesh Kanna, Siddharath Dharmadhikari, Aaditya A. Pande, Bharat Bagla, B. K. Satija, Bhakti Vardhan Singh, Gopal Singh, Ashok Kumar Singh, Aravindh S., Abbas. B., Mahfooz A. Nazki, Polanki Gowtham, Shaik Mohamad Haneef, T. Vijaya Bhaskar Reddy, K.V. Girish Chowdary, Ms. Rajeswari Mukherjee, Advs. for the Respondents. C D

The Judgment of the Court was delivered by E

**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. F G

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, H

A 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

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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. A

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. B C D E

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

Divya Pandey  
(Assisted by : Deepak Panwar, LCRA)

Appeal disposed of.