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RAJASTHAN FINANCIAL CORPORATION
Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur-302 005

Ref.No.RFC/F.Law-3/LPM(22)/ 4170 Dated: 03-Sept.,2005
Oct.

CIRCULAR
(Lit. Cir No. 124.)

Sub: Important decision pronounced by Hon'ble High Court, Jaipur in the Civil Writ Petition No.4150/99 titled as M/s. M.M.Associates Pvt. Ltd. Vs. State of Rajasthan & Ors. against the recovery initiated by the Asstt. Commercial Taxes Officer, Alwar of Sales Tax Dues of the original borrower

The above writ petition was filed by M/s. M.M. Associates Pvt. Ltd., Alwar against the State of Rajasthan, Asstt. Commercial Taxes Officer, Alwar and the RFC. After hearing the writ, the Hon'ble High Court, Jaipur has decided vide enclosed order dated 11.08.05 considering that -

“ Due sales tax can only be recovered from the owner on the commodities sold by him. There is no averment that the business of the previous owner has been transferred to the petitioner. Reliance on Section 46 of the Act is wholly irrelevant since, as has already been submitted, no business has been transferred from the previous owner to the present petitioner. Even the agreement between the petitioner and the RFC does not include the tax liability of previous owner to be paid by the petitioner. Mr. M Rafiq, learned Additional Advocate General, laboured hard to bring the present matter within the purview of Section 46 of the Act. However, the submission made by the learned Additional Advocate General is wholly misconceived and untenable.

Accordingly, the writ petition is allowed. The recovery in the present matter is quashed and set aside.”

The above decision has been made in the writ referred above and prayer made in the writ were as under:-

- i) declare the action of respondent No. 2 of making recovery of dues of earlier writ as illegal, arbitrary and without the authority of law;

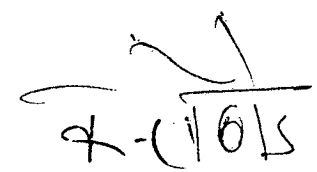
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- ii) quash/set aside the auction notice issued by respondent No. 2 and declare the same as illegal, arbitrary and unjustified;
- iii) declare the action of respondent No. 2 in attaching the property as illegal and direct him to release property forthwith;
- iv) to restrain respondent No.2 from making any recovery of the outstanding amount of M/s. Reliance Hydropack Pvt.Ltd;
- v) petitioner may be held not liable for making any payment of the dues against M/s. Reliance Hydropack Pvt.Ltd.; and
- vi) such further relief for which the petitioner is entitled may also be awarded including costs.

After hearing at length the Hon'ble Court has decided that the subsequent purchaser cannot be held liable for the dues of State or of the previous owner. The judgement is very much helpful to the RFC.

The enclosed judgement is of use for contesting the cases against the Sales Tax Department.

All concerned are advised to make note of it.



(Karmi Singh Rathore)

Chairman and Managing Director

Encl. As above

Copy to:

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RFE File

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राजस्थान राज्य - राजस्थान बी. जयपुर

Notified Copy of Order Dated

5-10
11-8-05

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH : JAIPUR.

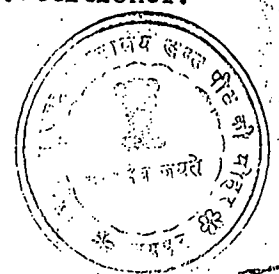
S.B. CIVIL WRIT PETITION NO. 4150 OF 1999

M/s. M.M. ASSOCIATES PRIVATE LTD.
H-713, Industrial Area,
Bhiwadi District Alwar.

..Petitioner.

Versus

1. State of Rajasthan - through
Commissioner, Commercial Taxes,
Rajasthan, Jaipur.
2. Assistant Commercial Taxes Officer,
Ward-I, Circle Bhiwadi,
Alwar, Rajasthan.
3. Rajasthan Financial Corporation,
through - Chairman-cum-Managing Director,
Udyog Bhawan, Tilak Marg,
Jaipur.



27-08-05
राजस्थान हाई कोर्ट
जायपुर

..Respondents.

S.B. CIVIL WRIT PETITION UNDER ARTICLE
226 OF THE CONSTITUTION OF INDIA.

IN THE MATTER OF:

RAJASTHAN SALES TAX ACT, 1994 AND
RAJASTHAN SALES TAX RULES, 1995; and

IN THE MATTER OF:

ILLEGAL AND ARBITRARY DEMAND RAISED BY
RESPONDENT NO. 2 FOR THE RECOVERY OF

STATE COMMISSIONER
Rajasthan High Court
Jaipur

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M/S. RELYANCE HYDROPACK



To,

सूची - प्रतिलिपि
व्यापारिक प्रशासकीय कार्यालय
राज्य उद्योग विभाग
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assess machinery

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machinery of the said M/s. Reliance Hydropack Pvt.Ltd.

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Civil Writ Petition No. 4150/1999.

M/s. M.M. Associates Pvt. Ltd.

VERSUS

State of Rajasthan & Ors.

Date: 11.08.2005.

HON'BLE Mr. JUSTICE ASHOK PARIHAR

Mr. R.B. Mathur, for the petitioner

Mr. M. Rafiq, AAG),

Mr. G.C. Garg, for respondents.

BY THE COURT:

It is yet another case of highhandedness of the authorities concerned to levy tax without any rhyme or reason. The petitioner had purchased the land and the factory premises from the R.F.C. in an open auction. Apart from no mention in the auction notice, the petitioner also never intended to purchase the entire business of the previous owner. There is also no dispute that the R.F.C. had taken the possession of the land in dispute of the factory on account of defaults of the previous owner. Since the business of the previous owner had not been purchased by the petitioner, the respondents could not have recovered the tax amount due on the previous owner from the petitioner. Due sales tax can only be recovered from the owner on the commodities sold by him. There is no averment that the business of the previous owner has been transferred to the petitioner. Reliance on Section 46 of the Act is wholly irrelevant since, as has already been



सही - प्रतिलिपि

ऑफिसियल अभिलेखी न्यायिक
दफतरे उच्च न्यायालय रोड
जयपुर

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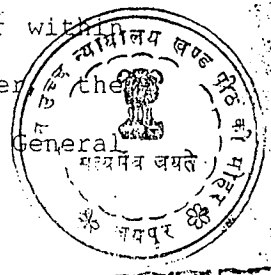
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submitted, no business has been transferred from the previous owner to the present petitioner. Even the agreement between the petitioner and the R.F.C. does not include the tax liability of previous owner to be paid by the petitioner. Mr. M. Rafiq, learned Additional Advocate General, laboured hard to bring the present matter within the purview of Section 46 of the Act. However, the submission made by the learned Additional Advocate General is wholly misconceived and untenable.



Accordingly, the writ petition is allowed. The recovery in the present matter is quashed and set aside.

प्रति लिपि
 1/11/2005
 न्यायिक अधिकारी न्यायिक
 संयुक्त न्यायालय पोस्ट,
 लखनऊ

(Ashok Parihar) J.