

**Reportable****IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION****CIVIL APPEAL NO. 1208 OF 2025****STATE OF RAJASTHAN & ORS. ... APPELLANT(S)*****versus*****COMBINED TRADERS ... RESPONDENT(S)****J U D G M E N T****ABHAY S. OKA, J.**

1. The first appellant is the State of Rajasthan. A writ petition was filed before the High Court of Judicature for Rajasthan by the respondent-Combined Traders invoking jurisdiction of the High Court under Article 226 of the Constitution of India for challenging the validity of sub-rule (20) of rule 17 of the Central Sales Tax (Rajasthan) Rules, 1957 (for short, ‘the Rajasthan Rules’). Sub-rule (20) of Rule 17 was incorporated by way of an amendment with effect from 14th July 2014. Sub-rule (20) of Rule 17 provided that where any dealer had generated declaration forms or certificates by misrepresentation of fact or by fraud or in contravention of the provisions of the Central Sales Tax Act, 1956 (for short, ‘the CST Act’) and rules

made thereunder, the assessing authority or any other authority authorised by the Commissioner after affording such dealer an opportunity of being heard, is empowered to cancel such declaration forms or certificates. By the impugned judgment, the High Court held that the first appellant-State had no rule-making power to frame a rule providing for the cancellation of validly issued declarations/forms. The High Court held that sub-rule (20) of Rule 17 of the Rajasthan Rules was *ultra vires* Sections 8(4), 13(1)(d), 13(3) and 13(4)(e) of the CST Act.

2. During 2017-18, the respondent sold certain goods to M/s. H.G. International and M/s. Saraswati Enterprises (originally respondent Nos.2 and 3, whose names were deleted from the array of parties) against Form C amounting to Rs. 4.89 crores and Rs. 7.20 crores respectively. Goods were sold in the first quarter of the year 2017-18.

3. The revenue authorities inspected the places of business of M/s. H.G. International and M/s. Saraswati Enterprises. On inspection, it was revealed that no business activity was carried out at the places and registration of M/s. H.G. International and M/s. Saraswati Enterprises was completely bogus. Notices were issued to the respondent for the cancellation of Form C. To claim reduced rates of taxes as per Section 8(1) of the CST Act,

the respondent had furnished Form C as required by Section 8(4) of the CST Act. A single Form C is required to be submitted for a quarter as provided in the second proviso to sub-rule (1) of Rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957 (for short, 'the Central Registration Rules').

4. M/s. H.G. International and M/s. Saraswati Enterprises obtained Form C online on 6th July 2017. The respondent claimed a refund in the return filed on 11th July 2017 for the first quarter of 2017-2018 under the Delhi Value Added Tax Act, 2004 (for short, 'the Delhi VAT Act'). The refund was not given within two months of the return filing date. Therefore, the respondent filed a writ petition before the Delhi High Court. By the order dated 18th September 2017, the Delhi High Court directed the authorities in Delhi to refund the amount along with due interest.

5. By separate orders dated 7th December 2017, the third appellant cancelled the declaration forms of M/s. H.G. International and M/s. Saraswati Enterprises on the ground that they were not found functioning at their respective business premises. The declaration forms were cancelled, exercising power under sub-rule (20) of Rule 17 of the Rajasthan Rules read with Sections 48 and 16(4) of the Rajasthan Value Added Tax Act, 2003. Even the

registration certificates of the said firms were cancelled. Before the said order, the third appellant issued letters dated 20th and 30th November 2017 to VATO Ward-17, New Delhi, informing about the cancellation of Form C of the two entities. The respondent filed a writ petition before the High Court of Rajasthan, Bench at Jaipur. As stated earlier, the first prayer was for declaring sub-rule (20) of Rule 17 of the Rajasthan Rules as *ultra vires* Sections 8(4), 13(1)(d), 13(3) and 13(4)(e) of the CST Act. Consequential prayers were made for challenging the order dated 7th December 2017 and the communications of 20th and 30th November 2017. Other consequential reliefs were also prayed for.

SUBMISSIONS

6. The learned senior counsel appearing for the appellants has taken us through the relevant provisions of the CST Act and the Rajasthan Rules. The learned senior counsel invited our attention to the rule-making power conferred by Section 13 (3) of the CST Act. He pointed out that the general rule-making power has been conferred on the State Government to make rules which are not inconsistent with the provisions of the CST Act and the rules made by the Central Government under Section 13(1) thereof. He submitted that sub-rule (20) of Rule 17 of the Rajasthan Rules is not inconsistent with the

provisions of the CST Act. He submitted that sub-rule (20) of Rule 17 has been enacted to prevent fraud and contravention of the provisions of the CST Act and rules made thereunder. He submitted that sub-section (3) of Section 13 of the CST Act confers a power on the State Government to make rules to carry out the purposes of the CST Act. Rule-making power can be exercised under sub-section (3) of Section 13 to check evasion. He submitted that the activity of preventing evasion is for carrying out the purposes of the CST Act.

7. The learned counsel invited our attention to the separate orders dated 7th December 2017 passed by the Commercial Tax Officer of the first appellant-State Government, by which Forms C issued to M/s. H.G. International and M/s. Saraswati Enterprises were cancelled and consequently, their registration certificates were also cancelled. He pointed out that a finding was recorded that on inspection of the premises of M/s. H.G. International and M/s. Saraswati Enterprises, it was found that no commercial activity or business was being carried out. Therefore, it was observed that the commercial activity of M/s. H.G. International and M/s. Saraswati Enterprises was doubtful. M/s. H.G. International and M/s. Saraswati Enterprises did not appear notwithstanding service of notice. Therefore, on the ground of pleading false facts, the declaration forms

(Form C) were ordered to be cancelled. He submitted that there is no inconsistency between sub-rule (20) of Rule 17 of the Rajasthan Rules and any of the provisions of the CST Act or the rules framed thereunder by the Central Government.

8. The learned counsel appearing for the respondent invited our attention to Section 13 of the CST Act. He pointed out that the rule-making power under clause (d) of sub-section (1) of Section 13 has been conferred on the Central Government, providing for prescribing a form setting out all the particulars to be contained in any declaration or certificate to be given under the CST Act. He submitted that clause (d) does not confer any power on the Central Government to make rules to cancel any declaration or certificate under the CST Act. In any event, no such rules have been framed by the Central Government. Inviting our attention to sub-section (4) of Section 13, he submitted that none of the clauses (a) to (g) confer any power on the State Government to frame rules, providing for cancellation of declarations and certificates under the CST Act. He invited our attention to Section 8 (1) of the CST Act, which provides for a dealer selling the goods, furnishing to the prescribed authority, a declaration duly filled and signed by a registered dealer to whom the goods are sold. He submitted that Section 8 does not provide for cancellation of the declaration. He

invited our attention to Section 7 of the CST Act, which provides for registration of dealers. He pointed out that sub-section (5) of Section 7 specifically confers a power on the authority to cancel the registration certificate. Such provision is absent in Section 8 of the CST Act.

9. The learned counsel submitted that sub-rule (20) of Rule 17 is a standalone rule which was introduced on 14th July 2014 after a gap of 57 years from the date on which the CST Act came into force. He submitted that no other State has made any such rule. He relied upon a decision of the Delhi High Court in the case of **Jain Manufacturing (India) Pvt Ltd v. Commissioner of Value Added Tax & Anr¹**. In this case, the Commissioner under the Delhi VAT Act had cancelled Form C. He pointed out that the counsel appearing for the Commissioner stated that there was no provision in the CST Act for cancellation of Form C. He submitted that the special leave petition preferred against the decision was dismissed on the ground of low tax effect.

10. The learned counsel relied upon a decision of this Court in the case of **Sales Tax Officer, Ponkunnam & Anr. v. K.I. Abraham²**. He also relied upon another decision of this Court in the case of **The State of Madras v. R Nand Lal & Co³**. He would therefore submit that the

¹ (2016) (93) VST (326) (Delhi) : 2016 SCC OnLine Del 3656

² (1967) (20) STC 367 (SC) : 1967 SCC OnLine SC 157

³ (1967) (20) STC 374 (SC) : 1968 SCC OnLine SC 142

view taken by the High Court of Rajasthan in the impugned judgment is correct.

CONSIDERATION OF SUBMISSIONS

11. Firstly, we must advert to Section 8 of the CST Act. Sub-sections (1) and (4) of Section 8 as it stood at the relevant time, read thus:

“8. Rates of tax on sales in the course of inter-State trade or commerce- (1)

Every dealer, who in the course of inter-State trade or commerce-

(a) sells to the Government any goods; or

(b) sells to a registered dealer other than the Government goods of the description referred to in sub-section (3),

shall be liable to pay tax under this Act, with effect from such date as may be notified by the Central Government in the Official Gazette for the purpose, which shall be two per cent of this turnover or at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State, or, as the case may be, under any enactment of that State imposing value added tax, whichever is lower:

Provided that the rate of tax payable under this sub-section by a dealer shall continue to be four per cent of his turnover, until the rate of two per cent, takes effect under this sub-section.”

.....

(4) The provisions of sub-section (1) shall not apply to any sale in the course of inter-State trade or commerce unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner-

(a) a declaration duly filled and signed by the registered dealer to whom the goods are sold containing the prescribed particulars in a prescribed form obtained from the prescribed authority; or

(b) if the goods are sold to the Government, not being a registered dealer, a certificate in the prescribed form duly filled and signed by a duly authorised officer of the Government:

Provided that the declaration referred to in clause (a) is furnished within the prescribed time or within such further time as that authority may, for sufficient cause, permit.”

(emphasis added)

11.1. Sub-section (1) of Section 8 provides that, a dealer who in the course of inter-State trade or commerce sells goods of the description provided under sub-section (3) to a registered dealer, shall be liable to pay tax which shall be 2 % of his turnover or at the rate applicable to the sale and purchase of such goods inside the appropriate State under the sales tax law of that State, whichever is

lower. In view of sub-section (4) of Section 8, the condition precedent for applicability of sub-section (1) is that the dealer selling the goods in the course of inter-State trade or commerce must furnish to the prescribed authority in the prescribed manner a declaration duly filled containing the prescribed particulars in a prescribed form obtained from the prescribed authority and signed by the registered dealer to whom the goods are sold.

12. The word “prescribed” means prescribed by the rules. Under sub-section (1) of Section 13, the rule making power has been conferred on the Central Government providing for what is set out in clauses (a) to (g) of Section 13(1). Clause (d) of Section 13(1) thereof is material, which reads thus:

“13. Power to make rules-

(1) The Central Government may, by notification in the Official Gazette, make rules providing for –

.....

(d) the form in which and the particulars to be contained in any declaration or certificate to be given under this Act the State of origin of such form or certificate and the time within which any such certificate or declaration shall be produced or furnished;”

(emphasis added)

12.1. Thus, the Central Government has the rule-making power to prescribe the form of declaration and lay down particulars to be contained in any declaration. Therefore, the form of declaration under Section 8(4) and the contents thereof are to be provided by the rules framed by the Central Government in accordance with Section 13(1)(d) of the CST Act.

13. Now, we come to sub-sections (3) and (4) of Section 13 of the CST Act, which read thus:

“13. Power to make rules-

.....

(3) The State Government may make rules, not inconsistent with the provisions of this Act and the rules made under sub-section (1), to carry out the purpose of this Act.

(4) In particular and without prejudice to the powers conferred by sub-section (3), the State Government may make rules for all or any of the following purposes, namely:-

(a) the publication of lists of registered dealers, of the amendments made in such lists from time to time, and the particulars to be contained in such lists;

(aa) the manner in which security may be furnished under sub-section (2A) or sub-section (3A) or sub-section (3C) of section 7 and the manner in which and the time within which any deficiency may be made up under sub-section (3E) of that section;

(b) the form and manner in which accounts relating to sales in the course of inter-State trade or commerce shall be kept by registered dealers;

(c) the furnishing of any information relating to the stocks of goods of purchases, sales and deliveries of books by, any dealer or any other information relating to his business as may be necessary for the purposes of this Act;

(d) the inspection of any books, accounts or documents required to be kept under this Act, the entry into any premises at all reasonable times for the purposes of searching for any such books, accounts or documents kept or suspected to be kept in such premises and the seizure of such books, accounts or documents;

(e) the authority from whom, the conditions subject to which and fees subject to payment of which any form of certificate prescribed under clause (a) of the first proviso to sub-section (2) of section 6 or of declaration prescribed under sub-section (1) of section 6A or subsection (4) of section 8 may be obtained, the manner in which such forms shall be kept in custody and records relating thereto maintained and the manner in which any such form may be used and any such certificate or declaration may be furnished;

(ee) the form and manner in which, and the authority to whom, an appeal may be preferred under sub-section (3H) of section 7, the procedure to be followed in

hearing such appeals and the fees payable in respect of such appeals;

(f) in the case of an Undivided Hindu Family, association, club, society, firm or company or in the case of a person who carries on business as a guardian or trustee or otherwise on behalf of another person, the furnishing of a declaration stating the name of the person who shall be deemed to be the manager in relation to the business of the dealer in the State and the form in which such declaration may be given;

(g) the time within which, the manner in which and the authorities to whom any change in the ownership of any business or in the name, place or nature of any business carried on by any dealer shall be furnished.”

(emphasis added)

13.1. On the face of it, none of the clauses (a) to (j) of sub-section (4) empower the State Government to frame rules providing for cancellation of declarations or forms furnished as per the rules framed by the Central Government in accordance with clause (d) of sub-section (1) of Section 13 of the CST Act.

14. In exercise of the rule-making power under clause (d) of sub-section (1) of Section 13, the Central Registration Rules have been framed. Rule 12(1) provides that the declaration referred to in sub-section (4) of Section 8 of the CST Act shall be in Form C prescribed thereunder.

Therefore, the Central Registration Rules have laid down the form of declaration referred to in Section 8(4). A perusal of the Central Registration Rules shows that no power is conferred on any authority to cancel the declaration in Form C. Thus, the rules which prescribe the form of declaration in terms of Section 8(4), do not provide for cancellation of the declaration on the ground that commercial activities were not found at the address mentioned in the declaration. There is no provision in the Central Registration Rules to cancel the declaration in Form C. In contrast, the Central Registration Rules provide for cancellation of the certificate of registration for giving effect to sub-section (5) of Section 7 of the CST Act.

15. Now, coming back to sub-sections (3) and (4) of Section 13, the rule-making power conferred on the State Government under sub-section (4) is for any or all of the specific purposes laid down in clauses (a) to (j). As stated earlier, none of these clauses provide for making a rule to enable the authorities to cancel a declaration in Form C. It is true that under sub-section (3) of Section 13, the State Government has power to frame rules to carry out purposes of the CST Act. However, power of sub-section (3) is circumscribed by its first part which provides that the rules made to carry out the purposes of the CST Act should not be inconsistent with the provisions of the CST

Act and the rules made by the Central Government in exercise of powers under Section 13(1) of the CST Act.

16. A specific rule-making power under clause (d) of sub-section (1) of Section 13 has been exercised by the Central Government by framing the Central Registration Rules laying down the form of declaration (Form C) required to be furnished in terms of sub-section (4) of Section 8. As stated earlier, the Central Registration Rules do not vest power in any authority to cancel the declaration in Form C. Therefore, if the State Government exercises the rule-making power under sub-section (3) of Section 13 by making rules providing for cancellation of a declaration in Form C as provided in Central Registration Rules, the State Rules will be inconsistent with the Central Registration Rules framed by the Central Government in exercise of power under Section 13(1)(d) of the CST Act. The State Government cannot frame rules in exercise of power under Section 13(3) which will be inconsistent with the rules framed by the Central Government in exercise of powers under Section 13(1) of the CST Act.

17. The respondent relied upon the decision of this Court in the case of **R. Nand Lal & Co³**. In the facts of this case, the assessing authority declined to assess the turnover as prescribed by sub-section (1) of Section 8 of the CST Act on the ground that the declaration in Form C covered two

or three transactions contrary to the first proviso to Rule 10(1) of the Rules framed by the State Government under the CST Act. This Court, in the said decision, while dealing with the rule-making power of the State under Section 13, held thus:

“..

We are constrained to observe that the rule-making authorities have failed to appreciate the scheme of Section 13 of the Central Sales Tax Act. **We are of the opinion that it was not within the competence of the State authorities under Section 13(3) and (4) of the Central Sales Tax Act to provide that a single declaration covering more than one transaction shall not be made. Authority to prescribe such an injunction cannot have its source in Section 13(3) or Section 13(4)(e); it can only be in the authority conferred by clause (d) of Section 13(1) by the Central Government. The Central Government has, in exercise of the power under Section 13(1)(d) prescribed that form of declaration and the particulars to be contained in the declaration. A direction that there shall be a separate declaration in respect of each individual transaction may appropriately be made in exercise of the power conferred under Section 13(1)(d). The State Government is undoubtedly empowered to make under sub-section (3) and (4) of Section 13; but the rules made by the State Government must not be inconsistent**

with the provisions of the Act and the Rules made under sub-section (1) of Section 13 to carry out the purposes of the Act. If the authority to make a Rule prescribing that the declaration shall not contain more than one transaction can be made only under Section 13(1)(d), the State Government cannot exercise that authority.

.....”

(emphasis added)

18. Therefore, for the reasons set out above, it is not possible to find fault with the view taken by the High Court that sub-rule (20) of Rule 17 of the Rajasthan Rules is inconsistent with the Central Registration Rules framed in exercise of power under clause (d) of sub-section (1) of Section 13 of the CST Act.

19. Hence, the appeal must fail and the same is dismissed with no order regarding costs.

.....J.
(Abhay S Oka)

.....J.
(Ujjal Bhuyan)

**New Delhi;
April 16, 2025.**