

**This relates to latest Rajasthan High Court/Raj HC ruling in Marudhara Motors a dealer of Tata Motors, in context of Rajasthan Sales Tax Law.**

**1. Transaction Train/ Background Facts:**

*“As such the transaction train is as under:-*

- 1. Sale of vehicle along with the warranty thereon with warranty by Tata Motors to Dealer (Marudhara Motors) at cost plus CST as applicable against “C” form.*
- 2. Sale of spare parts of vehicles by Tata Motors to Marudhara Motors (Dealer) at cost plus CST as applicable against “C” form.*
- 3. Sale of vehicle along with the warranty thereon by Marudhara Motors (Dealer) to customer (vehicle user) at selling price plus Rajasthan Sales Tax.*
- 4. Vehicle coming back to Marudhara Motors during warranty period due to defect, Marudhara Motors replaces the defective part/s or the vehicle without charging anything from the customer out of the part/s of the vehicle in its stock.*
- 5. Marudhara Motors returns such defective part/s or vehicle to Tata Motors sold earlier to it by Tata Motors.*
- 6. Tata Motors pays back the purchase price to Marudhara Motors by crediting its running account for purchase of part/s or vehicle as the case may be.”*

**2. Dealer (Respondent) Contentions before Raj HC:**

*“Learned counsel for the assessee thereupon stressed that the warranty for replacing the defective parts of the vehicles is a contract between the manufacturer M/s TATA Motors and the ultimate customer and the property in goods namely spare parts which are so replaced remains with the manufacturer company M/s TATA Motors and, therefore, there is no question of imposition of tax in the hands of respondent assessee-dealer, who merely provides it as a matter of service to the customers to immediately replace the defective parts and such defective parts are sent back to the manufacturer as purchase returns which are either replaced by the manufacturer company or the manufacturer instead, reimburses the same in the form of credit notes issued by the manufacturer in favour of the respondent assessee and, therefore, since no property in goods is transferred by the assessee dealer in favour of the manufacturer from whom the replacement is made or for which reimbursement is received in the form of credit notes, no taxable sale of such spare parts can be said to have taken place.”*

**3. Revenue’s (APPELLANT) contentions before Raj HC:**

*“Mr.Vinit Kumar Mathur, learned counsel appearing for the Revenue urged that the assessing authority as well as the first appellate authority were justified in upholding imposition of tax on such consideration received by the assessee dealer from the manufacturer, M/s TATA Motors in the form of credit notes on account of replacement of defective parts of vehicles on the basis of*

*Supreme Court decision in the case of Mohd. Ekram (supra) and Tax Board has fallen into error in setting aside such levy of tax distinguishing the case of the assessee from the one involved before the Supreme Court in Mohd. Ekram Case (supra) and, therefore, revision petitions filed by the Revenue deserve to be allowed and such levy of tax deserves to be restored along with interest and penalty imposed by the assessing authority, which was wrongly set aside by the first appellate authority as well as Tax Board. He emphatically relied upon the decision of Supreme Court in case of Mohd. Ekram (supra).”*

#### **4. Raj HC Conclusions and Reasoning:**

“19. From the dispassionate and closer consideration of the material on record, it appears to this Court that facts of the present case obtaining in the case of respondent assessee dealer are distinguishable from the facts obtaining in Mohd. Ekram's case (supra) before the Hon'ble Supreme Court, therefore, the said judgment of Apex court in Mohd. Ekram's case (supra) could not be blindly applied by the Revenue authorities to the facts of respondent assessee's case.

#### **20. The major points of distinction between the two are as follows:**

- (i) *In Mohd. Ekram's case relationship between assessee Mohd. Ekram and manufacturer was that of agent and principal, whereas, in the case in hand before this Court the relationship is that of principal to principal and not principal to agent, and that makes the foundational difference.*
- (ii) *In Mohd. Ekram's case, as can be seen from para no.5, the assessee had supplied the goods for which it received the consideration by way of credit notes and/or other modes of payments whereas in the present case the spare parts or defective parts collected by the assessee M/s Marudhara Motors are sent back physically to the manufacturer M/s TATA Motors, who either replenishes those spare parts or gives credit note equal to the value of such replaced new parts. Thus, transactions between dealer assessee and customer is independent from the one between dealer and the manufacturer here.*
- (iii) *Such spare parts are supplied by the present assessee free of cost to the customers is a fact not disputed by the Revenue in the*

*present case, whereas in Mohd. Ekram's case Hon'ble Supreme Court observed in para no.6 that, `in case the manufacturer may have purchased from the open market parts for the purpose of replacement of the defective parts, for such transactions, it would have paid taxes and the position here is not different because the assessee had supplied the parts and received the price.”*