**(1985) 09 AHC CK 0021**

**In the Allahabad High Court**

**Case No :** Sales Tax Revision No''s. 292 and 293 of 1985

Ajai Kumar and Co. APPELLANT

Vs

Commissioner of Sales Tax RESPONDENT

**Date of Decision :** 30-09-1985

**Acts Referred:**
Uttar Pradesh Sales Tax Act, 1948 — Section 11(8)

**Citation :** (1986) 62 STC 200

**Hon'ble Judges :** S.K. Dhaon, J

**Bench :** Single Bench

**Advocate :** Matloob Ahmad, for the Appellant; The Standing Counsel, for the Respondent

**Final Decision :** Allowed

## Judgement

S.K. Dhaon, J.—These revisions, at the instance of the assessee, arise out of the same order dated 21st February, 1985, passed by the Sales Tax Tribunal, U.P. (hereinafter referred to as the Tribunal).

2. Proceedings were initiated against the petitioner-company, which runs a brick-kiln, for the assessment years 1980-81 and 1981-82. The first appellate authority gave substantial relief to the assessee on the turnover for the year 1980-81. However, it maintained the order of the assessing authority regarding the purchase of coal for a sum of Rs. 2,500 by the assessee. For the year 1981-82, the first appellate authority gave some relief to the assessee with regard to the turnover. However, it maintained the order of the assessing authority regarding the purchase of coal for a sum of Rs. 600 during this period. Feeling aggrieved, the department as well as the assessee preferred cross appeals before the Tribunal with respect to both the years. The Tribunal has knocked off a sum of Rs. 600, the amount determined as the price paid for coal by the assessee during the assessment year 1981-82. In all other respects it maintained the order of the first appellate authority.

3. The Commissioner of Sales Tax has not come up to this Court and it appears that it has acquiesced in the order of the Tribunal. The assessee challenges the order of the Tribunal with respect to both the years of assessment.

4. A glance through the order of the Tribunal immediately indicates that it confined its attention to the appeals preferred by the Commissioner of Sales Tax.

5. It did not advert at all to the appeals preferred by the assessee so far as the question of the quantum of turnover is concerned. It may be that the Tribunal may have felt that no case has been made out for interference, but that is a matter of inference. As the last court of appeal on facts and law both, it has a statutory duty to decide the appeals of the assessee by passing a speaking order after applying its mind to the controversy raised before it. It has failed to do so in the instant case.

6. The revisions succeed and are allowed. The impugned order passed by the Tribunal dated 21st February, 1983, is set aside. It shall rehear the appeals of the assessee and dispose of the same on merits and in accordance with law and in the light of the provisions of Section 11(8) of the U.P. Sales Tax Act. It shall proceed on the assumption that the controversy regarding the purchase of coal by the assessee during the two relevant years is not before it. Parties are directed to bear their own costs.