(2022) 08 UK CK 0047

In the Uttarakhand High Court

Case No : Special Appeal No. 26 Of 2022

Amish Kumar Gupta APPELLANT

Vs

Deputy Commissioner (Tax Assessment) First RESPONDENT

Date of Decision : 17-08-2022

Acts Referred:
Uttaranchal Value Added Tax Act,. 2005 — Section 31

Citation : (2022) 08 UK CK 0047

Hon'ble Judges : Vipin Sanghi, CJ;Ramesh Chandra Khulbe, J

Bench : Division Bench

Advocate : Siddhartha Sah, Mohit Maulekhi

Final Decision : Dismissed

Judgement

Vipin Sanghi, J

1) The appeal, which is under defect, has been directed to be listed, since defects have not been removed.

2) We have heard learned counsel for the appellant.

3) The impugned order dismisses the appellant’s writ petition, wherein the appellant had challenged orders passed by the Assessing Authority under the provisions of the Uttarakhand VAT Act, 2005. The petition has been dismissed on the ground that the writ petitioner / appellant has statutory remedy of not only preferring a first appeal against the impugned order passed by the Assessing Officer, but also has a remedy under Section 31 of the Uttarakhand VAT Act to approach the Assessing Officer for seeking the setting aside of the ex-parte order on the ground that the assessee had not been served with a notice.

4) The case of the appellant is that the appellant had never been served with the notice which, as per the assessment order had been issued to the appellant-assessee. If that be the case, the appellant squarely has a remedy under Section 31 of the Uttarakhand VAT Act. We, therefore, do not find any merit in the

present appeal, and the learned Single Judge was justified in dismissing the writ petition on the ground that the appellant has a statutory remedy under the Uttarakhand VAT Act.

5) We, accordingly, dismiss this appeal. In case the appellant approaches the Assessing Authority under Section 31 of the Uttarakhand VAT Act within the next two weeks, the application of the appellant be entertained by the Assessing Authority without raising the issue of limitation.

Stay Application (IA No. 01 of 2022) also stands disposed of.

