(1986) 02 AHC CK 0005

In the Allahabad High Court

Case No : Sales Tex Revision No. 342 of 1985

Anil Industries APPELLANT

Vs

Commissioner, Sales Tax RESPONDENT

Date of Decision : 05-02-1986

Acts Referred:

Uttar Pradesh Trade Tax Act, 1948 — Section 12(2)

Citation : (1987) 65 STC 73

Hon'ble Judges : Anshuman Singh, J

Bench : Single Bench

Advocate : Bharatji Agarwal, for the Appellant;

Judgement

Anshuman Singh, J.—This revision, at the instance of the assessee, is directed against the judgment dated 20th March, 1985, passed by the Sales Tax Tribunal, Bench-II, Meerut, relating to assessment year 1980-81.

2. The assessee manufactures and sells chaff-cutter blades, iron wheel rims, etc. Books of account of the assessee were rejected by all the three authorities and best judgment assessment was passed. I have heard counsel for the parties. Sri Bharatji Agarwal, learned counsel appearing on behalf of the assessee, has contended that the Tribunal was not justified in rejecting the books of account of the assessee. Since a positive finding has been recorded by the authorities that the assessee has not maintained manufacturing account as contemplated u/s 12(2) of the Sales Tax Act (hereinafter referred to as the Act), I find myself unable to accept the contention raised by Sri Bharatji Agarwal, learned counsel for the assessee. So far as the rejection of the books of account of the assessee is concerned the same is liable to be maintained. Learned counsel for the assessee further submitted that in view of the finding recorded by the Tribunal itself that double plated iron rims are used for animal driven vehicles as well as the tractor trailers the turnover of the same should have been exempted u/s 4 of the Act. Counsel for the assessee drew my attention to the notification dated 14th November, 1980, published in the Gazette on 15th November, 1980 and

entry No. 30 whereof reads as under :

Animal driven vehicle including carts having pneumatic tyre wheels and accessories and attachment and spare parts thereof.

3. A perusal of the said entry indicates that wheels and accessories which are parts of animal driven vehicles, are exempt u/s 4 of the Act vide notification dated 14th November, 1980. I have carefully perused the order passed by the Tribunal and heard Sri P.K. Jain, learned counsel appearing on behalf of the Commissioner, Sales Tax. In view of the wordings of entry No. 30 I am of the opinion that the double plated rims manufactured by the assessee should have been exempted u/s 4 of the Act.

4. In the result the revision succeeds in part and is allowed. The order passed by the Tribunal is set aside and it is directed to determine the turnover of double plated rims of the assessee and exempt it from payment of tax. However, there will be no order as to costs.

5. Let a copy of this order be sent to the Tribunal concerned as contemplated u/s 11(8) of the Act.