(1977) 07 AHC CK 0006

In the Allahabad High Court

Case No : S.T.R. No. 723 of 1973

CENTRAL FOOD STORAGE APPELLANT

Vs

COMMISSIONER OF SALES TAX. RESPONDENT

Date of Decision : 27-07-1977

Acts Referred:
Central Sales Tax Act, 1956 — Section 8

Citation : (1977) 6 CTR 242(1)

Hon'ble Judges : Satish Chandra, J

Bench : Division Bench

Judgement

Satish Chandra, J. - Messrs. Central food Storage, Kanpur dealt with food grains. They used to supply foodgrains on the orders of the Central Government to different places. The turnover of this kind of transaction in foodgrains was brought to tax. The assessee went up in appeal and contended that since the sale by Government Departments was exempt by a notification issued under S. 4(1) (B) of the U.P. Sales Tax Act, their turnover of inter State sales on the orders of the Central Government was equally exempt from Central Sales Tax in view or S. 8(2-A) of the Central Act. This contention was upheld by the Judge Appeals. The assessee had also contended that he was not a dealer within the meaning of the Sales-tax Act. This latter contention was, however, repelled. The Commissioner, Sales-tax felt aggrieved and went up in revision.

2. The Judge Revisions, in his judgment, overruled the view taken by the Judge Appeals by a process of reasoning which we are unable to decipher or understand. He came to the conclusion that the assessees turnover of inter-state Sales was liable to Central Sales-tax.

3. At the instance of the assessee, the Judge Revisions has submitted this statement of the case and has referred the following questions for the opinion of this Court.

1. Whether on the facts and, in the circumstances of the case, foodgrains

despatched from Kanpur Depots of the Central Government to other provinces were taxable under the Central Sales-tax Act, in view of the true interpretation and scope of S. 8(2-A) as it stands now even after the amendment of Central Sales-tax (Amendment) Act of 1969 (Act No. XXVIII of 1969) when under the Notification No. S.T. 2932/X/902(21)-57, dated August 1, 1958 no sales-tax was payable on the sale of goods by any department of the State Government or Central Government ?

2. Whether on the facts and, in the circumstances of the case, the petitioner was justified in passing the point which was decided against him and the whole appeal was decided in his favour due to which he did not go in revision against that point ?

4. The first question is completely answered by a decision of the Division Bench in Sales-tax Reference No. 413 of 1976. Messrs. Poysha Industrial Company Limited vs. The Commissioner of Sales-tax, decided on July 19, 1977. In that case, the exemption from the U.P. Sales-tax Act granted to that dealer was for a period of three years. Following an earlier decision of this Court in Hindusthan Safety Glass Works (Pvt.) Ltd. vs. The State of U.P. and Anr. it held that exemption for a limited duration of time was non-the less a general exemption and was not an exemption given under specified circumstances within the meaning of exemption under S. 8(2-A) of the Central Sales-tax Act. Here the notification under S. 4(1) (b) of the U.P. Sales Tax Act did not lay down any condition as to the duration of time. It was a general exemption in respect of all the departments of the State Government and Central Government in respect of all sales of foodgrains made by them. It is, therefore, quite evident that the exemption was general and was not under any specified conditions. The assessee was entitled to exemption from the Central Sales-tax Act on the inter-State sales made by him.

5. In view of this answer to the first question, the second question becomes merely of academic value which is not necessary to decide.

6. In the result, the first question is answered in the negative in favour of the assessee and against the Department. The second question is returned without any answer. The assessee will be entitled to costs which we assess at Rs. 200/-.

