(1977) 07 AHC CK 0038

In the Allahabad High Court

Case No : Sales Tax Reference No. 723 of 1973

Central Food Storage APPELLANT

Vs

Commissioner ofSales Tax RESPONDENT

Date of Decision : 27-07-1977

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

Citation : (1977) 40 STC 529

Hon'ble Judges : Satish Chandra, J;M.B. Farooqui, J

Bench : Division Bench

Advocate : J.N. Tewari, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Disposed Off

Judgement

Satish Chandra, J.—Messrs. Central Food Storage, Kanpur, dealt with foodgrains. 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 the Government departments was exempt by a notification issued u/s 4(l)(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 of Section 8(2A) 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 assessee''s 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, food-grains 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 Section 8(2A), as it stands now even after the amendment by the Central Sales Tax (Amendment) Act of 1969 (Act No. 28 of 1969) when under Notification No. ST-2932/X-902(21)-57 dated 1st August, 1958, no sales tax was payable on the sale of goods by any department of the State Government or of the 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 Poysha Industrial Co. Ltd. v. Commissioner of Sales Tax [1977] 40 S.T.C. 455 (Sales Tax Reference No. 413 of 1976 decided on 19th July, 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 Hindustan Safety Glass Works (P.) Ltd. v. State of Uttar Pradesh [1974] 34 S.T.C. 209, it held that the exemption for a limited duration of time was none the less a general exemption and was not an exemption given under specified circumstances within the meaning of the exemption u/s 8(2A) of the Central Sales Tax Act. Here the notification u/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 the 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.

