(1984) 07 AHC CK 0036

In the Allahabad High Court

Case No : Sales Tax Revision No. 236 of 1983

Chandra Prakash Singhal APPELLANT

Vs

Commissioner of Sales Tax RESPONDENT

Date of Decision : 27-07-1984

Acts Referred:
Central Sales Tax Act, 1956 — Section 11, 14, 15

Citation : (1985) 58 STC 86

Hon'ble Judges : Om Prakash, J

Bench : Single Bench

Advocate : Bharatji Agrawal, for the Appellant; The Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

Om Prakash, J.—This is a revision by the assessee for the assessment year 1975-76, against the Tribunal''s order dated 17th February, 1983.

2. This point that arises for consideration is whether the business of the assessee is covered by serial No. 2 of Notification No. ST-II-6628/X-1012-1972 dated 1st December, 1973, which runs as follows :

Copper, tin, zinc, nickel or alloy or scraps containing any of these metals only, including sheets and circles used in the manufacture of brass-wares.

3. The contention of the assessee is that it deals in tin scrap, and therefore, the case of the assessee is fully covered by the entry at serial No. 2 of the notification dated 1st December, 1973. It is, therefore, urged that the assessee is liable to pay tax at 1 per cent only. In the order of the Tribunal, the aforementioned notification dated 1st December, 1973, has been referred to. What the Tribunal says is that the commodity in which the assessee deals in, is a declared commodity within the meaning of Clause (xii) of Sub-section (4) of Section 14, and therefore, the assessee would be liable to pay tax under that section. The approach is wholly erroneous. Section 14 of the Central Sales Tax

Act simply describes the declared commodities and it does not lay down any rate of tax. It is only Section 15 of the Central Sales Tax Act, which adverts to the declared commodities u/s 14 and then says that the tax payable in respect of any sale or purchase of declared goods, shall not exceed 4 per cent. So Section 15 simply lays down the ceiling of 4 per cent of the tax to be levied on the declared commodities. The reasoning of the Tribunal that the assessee is liable to be taxed u/s 14, is incorrect. The bare reading of serial No. 2 of the notification dated 1st December, 1973, clearly shows that the assessee, a dealer in tin scraps, is covered by the entry made at serial No. 2, and therefore, is liable to -pay tax at the rate of 1 per cent only.

4. In the result, the revision is allowed. Parties will bear their own costs.

5. The papers will now be sent to the Tribunal for passing order u/s 11(8).

