(2014) 03 UK CK 0061

In the Uttarakhand High Court

Case No : Trade Tax Revision No. 12 of 2009

Commissioner APPELLANT

Vs

Continental Cement Company RESPONDENT

Date of Decision : 12-03-2014

Acts Referred:
Uttarakhand Value Added Tax Act, 2005 — Section 18, 2(28)

Citation : (2014) 72 VST 401

Hon'ble Judges : Barin Ghosh, C.J;V.K. Bist, J

Bench : Division Bench

Advocate : Syed Nadeem, Standing Counsel, Advocate for the Appellant; Manish Arora, Advocate for the Respondent

Judgement

Barin Ghosh, C.J.—After issuing a notice, registration of the assessee under the VAT Act was cancelled by the assessing officer on the ground that the firm is not in existence. Under what circumstances, a registration can be cancelled have been provided in section 18 of the Uttarakhand Value Added Tax Act, 2005 (hereinafter referred to as "the Act"). In the notice, no ground, as mentioned in section 18 of the Act, was mentioned. The assessing officer proceeded only on the basis that the goods are not stored at the address given in the registration certificate. The assessing officer proceeded on the basis that it was reported by persons unidentified that the premises remains closed. The fact remains that the Act never requires that the goods are required to be stored at the place of registration. On the other hand, the Act defines "place of business" in section 2(28) as any place where a dealer carries on business and includes any shop, warehouse, godown or other place where dealers store goods; in other words, the Act contemplates that the dealer need not stores goods at the place from where he carries on business. The appellate authority having refused to interfere with the order of the assessing officer, the matter was taken up before the Tribunal and the Tribunal concluded that the conclusion of the assessing officer that the business of the revisionist is not in existence based only on the informations said to have been collected from unidentified persons that the premises remains closed, was unjust and not sustainable. The Tribunal further held that no case of cancellation, as provided in section 18 of the Act had been made out and, at the same time, was not also attempted to be established or established. The Tribunal, accordingly, interfered and set aside the order of the appellate authority as well as of the assessing officer. We have not been persuaded to take a different view. The revision fails and the same is dismissed.

