(2017) 01 AHC CK 0276

In the Allahabad High Court

Case No : Trade Tax Revision No. 28 of 2017

Commissioner, Commercial Tax — APPELLANT

Vs

U.P. Iron Stores — RESPONDENT

Date of Decision : 19-01-2017

Acts Referred:

Citation : (2017) 95 UPTC 322

Hon'ble Judges : Ashwani Kumar Mishra, J.

Bench : Single Bench

Advocate : Bipin Kumar Pandey, Advocate, for the Applicant

Final Decision : Dismissed

Judgement

Ashwani Kumar Mishra, J.—The first appellate authority as well as the Tribunal have concurrently held that the assessee has purchased iron sheets and has sold it as such, by cutting it into smaller pieces, out of it, without undertaking any processing or treatment, and as such, it does not come within the ambit of manufacturing of goods so as to attract liability of tax.

2. Aggrieved by this order, revisionist has preferred the present revision, placing reliance upon the judgment of the Apex Court in CST v. Union Metal Traders, reported in 41 STC, 768. It is pointed out that the Hon''ble Supreme Court was seized of a matter in which scrap of ship wreck was purchased and thereafter by cutting it into smaller pieces, the assessee had sold it, which was treated to be manufacture. Learned counsel submits that in such circumstances, the view taken by both the authority are not in accordance with law as laid down by the Hon''ble Apex Court.

3. I have heard learned Standing Counsel and have also perused the materials available on record.

4. The first appellate authority as well as the Tribunal have concurrently held that what was purchased by the assessee was iron sheet and by cutting it into smaller

piece it was sold which cannot be treated to be a different product. In the present case, since no processing or treatment was otherwise performed, therefore, it would not amount to manufacture of a commodity. The reasons assigned in the order of the Tribunal as well as in the order of the first appellate authority, cannot be said to be perverse or erroneous. The judgment of the Hon''ble Supreme Court in CST (Supra) is distinguishable on facts, inasmuch as what was purchased therein was the scrap of ship wreak and it was dismantled and sold as a distinct commodity. It was in that context that the Hon''ble Supreme Court observed that act of the assessee was covered within the definition of manufacture.

5. Such is not the case here. In the present case only iron sheets have been purchased and have been sold as such. The mere fact that the smaller pieces of sheets have been carved out, will not amount to manufacturing a new commodity.

6. Revision has no substance. It is accordingly dismissed and consigned to records.