(1978) 08 AHC CK 0030

In the Allahabad High Court

Case No : Sales Tax Revision No. 9 of 1978

Commissioner of Sales Tax APPELLANT

Vs

Krishna Chemicals RESPONDENT

Date of Decision : 23-08-1978

Acts Referred:

Citation : (1979) 43 STC 216

Hon'ble Judges : C.S.P. Singh, J

Bench : Single Bench

Advocate : L.P. Singh, for the Respondent

Final Decision : Dismissed

Judgement

C.S.P. Singh, J.—This revision is directed against the order of the Judge (Revisions) holding that salt petre was not a chemical and should be taxed as an unclassified item.

2. The assessee dealt in haldi, salt petre and phenyl, etc. The turnover of salt petre, which was to the tune of Rs. 18,977.14, was taxed by the Sales Tax Officer at the rate applicable to chemicals. This was by recourse to Notification No. ST-8301-1/X-1008-64 dated 1st April, 1966, the relevant part of which was to the following effect:

Chemicals of all kinds including fuel gases such as Burshane and Indane but excluding soda-ash and caustic soda.

3. On an appeal being filed, the appellate authority held that salt petre was nothing else but sabji khar or kalmi sora and was not chemical and as such should be taxed as an unclassified item. The decision of the appellate authority was upheld in revision.

4. There is ample authority to the effect that the word "chemical" as occurring in this notification has to be interpreted not as a term of art but as understood in common parlance in the commercial world. See Commissioner, Sales Tax, U. P. v.

Prayag Chemical Works, Naini, Allahabad [1970] 25 S.T.C. 85 (F.B.), and the case of Industrial Gases v. Commissioner, Sales Tax, U. P., Lucknow [1968] 21 S.T.C. 124(Luck). So understood salt petre or kalmi sora, which is normally not used in any manufacturing or processing activity but is used as food article cannot be put in the category of chemicals. In fact, in the case of Industrial Gases [1968] 21 S.T.C. 124, the Bench while giving example of such commodities, which in the scientific sense would be chemicals but should not be treated as such, has mentioned salt petre as one of the commodities which would not answer the description of chemical as used in the notification. This decision settles the point.

5. The revision is, accordingly, dismissed. The assessee is entitled to his costs, which are assessed at Rs. 200.