(1986) 10 AHC CK 0025

In the Allahabad High Court

Case No : Sales Tax Revision No. 383 of 1986

Commissioner of Sales Tax APPELLANT

Vs

Modi Industries Ltd. RESPONDENT

Date of Decision : 23-10-1986

Acts Referred:

Uttar Pradesh Sales Tax Act, 1948 — Section 21
Uttar Pradesh Sales Tax Act, 1948 — Section 21
Uttar Pradesh Sales Tax Act, 1948 — Section 21

Citation : (1987) 67 STC 341

Hon'ble Judges : R.R. Misra, J

Bench : Single Bench

Advocate : Bharatji Agarwal, for the Respondent

Final Decision : Dismissed

Judgement

R.R. Misra, J.—This revision is directed against the order dated 21st February, 1986, passed by the Sales Tax Tribunal, Ghaziabad. For the assessment year 1971-72 original assessment order was passed by the assessing authority on 25th March, 1976. Immediately on the next day a notice dated 26th March, 1976, u/s 21 of the U. P. Sales Tax Act (hereinafter referred to as the Act) was issued to the assessee. The assessee challenged the validity of this notice right up to the Tribunal. The Tribunal has recorded the following findings of fact:

(1) that the notice issued u/s 21 of the Act was for the purposes of verification of certain information which was available with the Sales Tax Officer,

(2) that the said information related to a Moradabad party. Apparently, it was not related to the assessee,

(3) that assessment records were not made available to the Tribunal.

2. That besides the above no other evidence or material was produced before the Tribunal to show any other basis for initiating proceedings u/s 21 of the Act.

3. Under the circumstances the Tribunal recorded a finding of fact that the notice u/s 21 of the Act was issued only for the purposes of verification of certain information which was available with the Sales Tax Officer on the date of the issue of the notice. After recording the aforesaid finding of fact, the Tribunal, on the basis of two decisions of this Court in General Electric Company of India Ltd. v. Sales Tax Officer, Kanpur [1974] 33 STC 108 and M.L. Shukla & Co. v. Sales Tax Officer, Kanpur 1981 UPTC 396 which took the view that the proceedings u/s 21 of the Act cannot be initiated for the purposes of verification of the information available with the sales tax authorities, has after following the said authorities, held that the initiation of proceedings u/s 21 of the Act was without jurisdiction.

4. I have heard the learned counsel for the parties. The learned Standing Counsel has vehemently urged that the Sales Tax Tribunal was not justified in taking the view which it did. However, the learned Standing Counsel has not been able to satisfy me that in view of the findings recorded by the Tribunal and the settled position of law as to how the judgment of the Tribunal is vitiated or there is an error of law. In my opinion, the Tribunal was perfectly justified on the findings recorded by it in taking the view that it took.

5. Under the circumstances, this revision has no force and is accordingly dismissed with costs.