(1979) 10 MP CK 0004

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No. 310 of 1976

Commissioner of Sales Tax APPELLANT

Vs

Naresh Traders RESPONDENT

Date of Decision : 26-10-1979

Acts Referred:
Madhya Pradesh General Sales Tax Act, 1958 — Section 44

Citation : (1980) 46 STC 227

Hon'ble Judges : R.K. Vijayvargiya, J;G.G.Sohani, J

Bench : Division Bench

Advocate : K.C. Goyal, for the Appellant; A.K. Chitale, for the Respondent

Judgement

R.K. Vijayvargiya, J.—By this reference u/s 44 of the M. P. General Sales Tax Act, the Board of Revenue has referred the following question of law for the opinion of this Court:

Whether or not an assessee is entitled to claim concessional rate of tax solely on the basis of the production of declaration in form XII-A even when it is found as a fact and the fact is not disputed that the particular goods covered by the declarations in form XII-A are not specified in the certificates of registration of the purchasing dealers as raw materials.

2. The facts giving rise to this reference as set out in the statement of the case are these : The assessee produced two declarations in form XII-A for the sale of ambadi to Vipin Oil Mills, Indore, and Indra Kumar and Company. The aforesaid two purchasers were registered dealers and the declarations given by them were in prescribed forms. However, it has been found as a fact that the goods covered by these declarations were not specified in their registration certificates as raw materials. On. these facts the assessee''s claim to be assessed at concessional rate was negatived by the Sales Tax Officer and the first appeal of the assessee also failed. However, the second appeal preferred by the assessee was allowed by the Board of Revenue. At the instance of the Commissioner the aforesaid

question of law has been referred for the opinion of this Court.

3. The question referred to us is concluded by a Full Bench decision of this Court in Commissioner of Sales Tax, Madhya Pradesh v. Lalloobhai & Co. Ltd., Sagar (1976) 9 V.K.N. 125 (F.B.). It was held by this Court in that case that the assessee who had obtained a declaration in form XII-A from the purchasing dealer was not entitled to claim the concessional rate of tax u/s 8(1) because the goods were not specified in the registration certificate of the purchasing dealer. Following the aforesaid Full Bench decision of this Court our answer to the question referred to us is that the assessee is not entitled to claim concessional rate of tax solely on the basis of the production of declarations in form XII-A even when it is found as a fact and the fact is not disputed that the particular goods covered by the declarations in form XII-A are not specified in the certificates of registration of the purchasing dealers as raw materials.

4. In the circumstances of the case there shall be no order as to costs of this reference.

