(1985) 10 AHC CK 0047

In the Allahabad High Court

Case No : Sales Tax Revision No. 402 of 1985

Commissioner of Sales Tax APPELLANT

Vs

Patursuns Adarsh Nagar RESPONDENT

Date of Decision : 31-10-1985

Acts Referred:
Central Sales Tax Act, 1956 — Section 14

Citation : (1987) 67 STC 139

Hon'ble Judges : Anshuman Singh, J

Bench : Single Bench

Advocate : P.K. Jain, for the Appellant; P.S. Verma, for the Respondent

Final Decision : Partly Allowed

Judgement

Anshuman Singh, J.—This revision has been preferred by the Commissioner of Sales Tax u/s 11(1) of the U. P. Sales Tax Act (hereinafter referred to as the Act), against the order dated 14th January, 1985, passed by the Sales Tax Tribunal, Meerut Bench, Meerut, relating to the assessment year 1974-75.

2. The assessee-respondent manufactures and sells pipe and pipe fittings. The disclosed turnover of the assessee was rejected by the assessing authority and the turnover was enhanced. The Assistant Commissioner (Judicial), in first appeal filed by the assessee, maintained the order passed by the assessing authority. The second appeal filed by the assessee has been allowed by the impugned order and the department has challenged the aforesaid order in the instant revision.

3. I have heard Sri P. K. Jain, counsel appearing for the department, and Mr. P. S. Verma, counsel for the respondent. As regards the acceptance of books of account of the assessee is concerned, Mr. Jain could not succeed in showing that the Tribunal committed any error in accepting the same. The contention of Mr. Jain is that the finding of the Tribunal that the commodity in question, i.e., pipe and pipe fittings manufactured by the assessee was covered by Section 14(iv)(xi) of the Central Sales Tax Act is wholly erroneous on the ground that Section 14(iv)

(xi) which deals with the declared commodity does not contain pipe and pipe fittings, but the said entry reads as under :

Steel tubes, both welded and seamless, of all diameters and lengths, including tube fittings.

4. Mr. Jain submitted that pipe and pipe fittings manufactured by the assessee is of iron and not of steel and until and unless the authorities hold that the iron and steel pipe and pipe fittings are the same commodity, the commodity manufactured by the assessee could not be treated to be a declared commodity u/s 14(iv)(xi). I have carefully perused the aforesaid entry, and the contention raised on behalf of the department appears to be correct. Before holding that the commodity manufactured by the assessee is covered by Section 14(iv)(xi), it is necessary to enquire into the question and to arrive at a conclusion that the iron and steel pipe and pipe fittings are the same or not. Since the Tribunal has not done so, it should be directed to record a finding on that question after hearing the parties.

5. In the result, the revision succeeds and is allowed in part. The order of the Tribunal to that extent is quashed and the matter is sent back to it for the limited purpose of recording a finding whether iron and steel pipe and pipe fittings are the same commodity or not. There will be no order as to costs.

6. Let a copy of this order be sent to the Tribunal concerned as contemplated u/s 11(8) of the Act.