(1987) 03 AHC CK 0073

In the Allahabad High Court

Case No : Sales Tax Revision No. 676 of 1986

Commissioner of Sales Tax APPELLANT

Vs

Pradeep Kumar Sanjeev Kumar RESPONDENT

Date of Decision : 10-03-1987

Acts Referred:

Citation : (1987) 67 STC 146

Hon'ble Judges : Om Prakash, J

Bench : Single Bench

Advocate : Rakesh Kumar, for the Respondent

Final Decision : Dismissed

Judgement

Om Prakash, J.—This is a revision for the assessment year 1978-79, by the Revenue against the Tribunal''s order dated 14th March, 1986.

2. The assessee deals in scrap and utensils. There is no dispute regarding the turnover of scrap. The facts are that a diary was seized at the time of survey dated 10th September, 1980. From the diary, it was discovered that the assessee made certain transactions of utensils relating to the assessment year 1978-79, the assessing officer drew the inference that the transactions related to purchases of utensils from outside the State, he therefore, initiated the proceedings u/s 21 of the U. P. Act, 1948 and brought such purchases of utensils treating them as purchases from outside the State to tax.

3. The assessee''s contention was that the purchases were made locally and not from outside the State. The assessee also furnished the addresses and the names of some sellers and only names of other sellers. No enquiry was conducted by the assessing officer from such persons to come to the conclusion whether the assessee indulged in making purchases from outside the State. The Tribunal, therefore, took the view that the assessee discharged initial burden by having furnished the names of some of the sellers and the names and addresses of others and that the assessing officer failed to bring any material on record to

draw the inference that the purchases of utensils were made from outside the State. I do not see any legal error in the order of the Tribunal. When the assessing officer initiated proceedings u/s 21, it was his duty to show that the assessee made purchases of utensils from outside the State and the turnover of the utensils purchased escaped the assessment. The assessing officer having not made any enquiry from the persons whose names and addresses were furnished by the assessee, the Tribunal was right in concluding that the assessing officer was wrong in drawing inference that the utensils in respect of which transactions were entered in the diary seized at the time of survey, had been purchased from outside the State. The assessee having furnished the names and addresses of some of the sellers and no enquiry having been made from them, I do not see any justification in rejecting the version of the assessee that the purchases were locally made.

4. In the result, the revision fails and is dismissed. No order as to costs.

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