(1982) 01 MP CK 0025

In the Madhya Pradesh High Court

Case No : M.C.C. No. 95 of 1980

Commissioner of Sales Tax — APPELLANT

Vs

Prahalad Das Ramdas — RESPONDENT

Date of Decision : 12-01-1982

Acts Referred:
Central Sales Tax Act, 1956 — Section 6

Citation : (1983) 52 STC 224

Hon'ble Judges : K.N. Shukla, J;G.G.Sohani, J

Bench : Division Bench

Advocate : Surjeet Singh, for the Appellant; S.C. Goyal and C.M. Mehta, for the Respondent

Judgement

G.G. Sohani, J.—By this reference u/s 44(1) of the M. P. General Sales Tax Act, 1958 (hereinafter referred to as the Act), the Board of Revenue has referred the following question of law to this Court for its opinion:

Whether, under the facts and circumstances of the case, the Tribunal is justified in holding that for claiming exemption from tax in respect of subsequent sale under Sub-section (2) of Section 6 of the Central Act, furnishing a declaration in form C from the purchasing dealer, as laid down in Rule 8-D of the M. P. Sales Tax (Central) Rules, 1957, is not necessary and only form E-I is sufficient to grant exemption for subsequent sale under the Central Act?

2. The material facts giving rise to this reference briefly are as follows:

The assessee was assessed to sales tax for the year 1963-64. The claim of the assessee for exemption u/s 6(2) of the Central Sales Tax Act was disallowed by the assessing authority and the appeal preferred by the assessee against that order was dismissed. That claim of the assessee was, however, upheld in the second appeal preferred by him before the Board. Hence at the instance of the department, the Board of Revenue has referred the aforesaid question of law for the opinion of this Court.

3. At the time of hearing, the learned counsel for the assessee and the department conceded that the question referred to this Court has to be answered in favour of the assessee and against the department in view of the decision of this Court reported in Commissioner of Sales Tax, Madhya Pradesh v. Prakash Oil Mills, Ujjain (printed at page 226 infra) 1981 VKN (14) 267. In that case, it has been held by a Division Bench of this Court that for the purpose of claiming exemption u/s 6(2) of the Central Sales Tax Act, it is sufficient to produce only the certificate in form E-I and that it is not obligatory to produce the original of the declaration in form C received from the purchasing dealer, as stipulated by Rule 8-D of the M. P. Sales Tax (Central) Rules, 1957. We see no reason to take a view different from that taken in the aforesaid decision.

4. Consequently, our answer to the question referred to us is that the Tribunal was justified in holding that for claiming exemption from tax in respect of subsequent sale under Sub-section (2) of Section 6 of the Central Act, furnishing a declaration in form C from the purchasing dealer, as laid down in Rule 8-D of the M. P. Sales Tax (Central) Rules, 1957, was not necessary and that only form E-I was sufficient to grant exemption for subsequent sale under the Central Act.

5. Reference answered accordingly.

6. In the circumstances of the case, parties shall bear their own costs of this reference.

