(1998) 03 AHC CK 0018

In the Allahabad High Court

Case No : Trade Tax Revision No. 287 of 1997

Commissioner of Trade Tax APPELLANT

Vs

Tara Engineering Works RESPONDENT

Date of Decision : 20-03-1998

Acts Referred:

Citation : (1999) 105 ELT 553

Hon'ble Judges : R.K. Gulati, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.K. Gulati, J.—This trade tax revision has been filed at the instance of the Commissioner of Trade Tax, UP., Lucknow and is directed against an order dated 16-6-1997 passed by the Trade Tax Tribunal, Bench Sharanpur.

2. For the Assessment Year 1988-89, an assessment was made against respondent-assessee on a turnover of Rs. six lacs on the allegation that the assessee was engaged in the business of manufacture and sale of Pulp Testing Machines. On the contrary the assessee did not admit any taxable turnover and its case was that it had done job work on the orders of M/s. Universal Engineering Corporation, Ambala Road, Sharanpur, for which the entire material was supplied by that concern and it had received only labour charges to the extent of Rs. 3,67,855.00. In appeal the assessment order was set aside and the case taken up by the assessee was accepted. Against the appellate order, Revenue filed a second appeal before the Trade Tax Tribunal, but it was dismissed. Feeling still aggrieved, this revision has been preferred.

3. On behalf of the revisionist, learned Standing Counsel contends that the assessee had manipulated the manufacture and sale business in the job-work by obtaining orders from M/s. Universal Engineering Corporation after receiving show-cause notice from assessing authority. It was further urged that the Tribunal was not justified in taking the view that the assessee had not transacted

any sales but had carried out only job-work.

4. I have considered the submissions carefully. From a perusal of the order passed by the Tribunal, it is evident that the assessee had produced enough material including the certificate from M/s. Universal Engineering Corporation that would clearly go to establish that the assessee had carried out only job-work. The allegation that the assessee had manipulated the manufacture and sale business in the job-work by obtaining orders subsequently show-cause notice, is without any basis and nothing was brought to the notice of the Court to substantiate that plea. In fact the Tribunal has observed that the amount of Rs. 3,67,855.00, formed part of Rs. 9,84,275.00 for which the job-work was executed and this was verifiable from the account books of M/s. Universal Engineering Corporation as well from the orders received from that concern. Both the appellate authorities have concurrently held that the assessee was not engaged in any business of sale. There is no sufficient material available to interfere with the findings of fact recorded by the Tribunal.

5. The revision is devoid of merit and is accordingly dismissed.