(2003) 09 AHC CK 0039

In the Allahabad High Court

Commissioner, Sales Tax APPELLANT

Vs

Central Finance Accounts and Budget Organisation RESPONDENT

Date of Decision : 19-09-2003

Acts Referred:
Uttar Pradesh Sales Tax Act, 1948 — Section 21

Citation : (2008) 11 VST 665

Hon'ble Judges : Rajes Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajes Kumar, J.—This revision is directed against the order of Tribunal dated July 6,1991 for assessment year 1984-85 arising from the proceeding u/s 21 of the U.P. Sales Tax Act, 1948.

2. The brief facts of the case are that during the assessment year 1984-85, the respondent had purchased machines worth Rs. 1,60,90,505 from BHEL, Hardwar and issued form III-D. The proceeding u/s 21 was initiated on the ground that the machines, which were purchased against form III-D were used for the purposes of producing electrical energy while the benefit was not available u/s 3G of the Sales Tax Act for the year under consideration. Tribunal found that the plant was commissioned and came into function in the year 1986-87 for producing the electrical energy. Therefore, the purchase against form III-D was legal. Against the said order, Commissioner of Sales Tax filed the present revision.

3. Heard learned Counsel for the parties.

Issue involved in the present revision is squarely covered by the judgment of this court in Sales Tax Revision No. 1610 of 1991 (Commissioner of Sales Tax, U.P. Lucknow v. National Thermal Power Corporation, Singrauli) decided on August 19, 2003 See page 667 infra. In that case also in assessment year 1984-85 the purchases were made against form III-D and the plant was commissioned in the year 1987-88. On the consideration of the amendment made in Section 3G on

September 13, 1985 by U.P. Sales Tax (Amendment and Validation) Act, 1985 by which in Sub-section (2) after the words "packing of any goods" the words "other than electrical energy" have been inserted and on consideration of the two circulars dated August 3, 1977 and October 13, 1987 issued by the Government and decisions of this court in the case of U.P. State Sugar Corporation Ltd. v. Commissioner of Sales Tax reported in [1983] 17 S.T.R 74 and Kichha Sugar Company Ltd. v. Commissioner of Sales Tax reported in [1995] UPTC 1028, it was held that the purchases made against form III-D during the year 1984-85 against form III-D and used in the commission of the plant in the year 1987-88 for the generation of the electrical energy was legal.

4. Following the aforesaid judgment, it is held that there is no error in the order of Tribunal. In the result, the revision is dismissed.

