
(1981) 10 AHC CK 0007
In the Allahabad High Court
Case No : Sales Tax Revision No. 223 of 1981

Commissioner, Sales Tax

APPELLANT

Vs

Chokhani Co.

RESPONDENT

Date of Decision : 19-10-1981

Acts Referred:

Central Sales Tax Act, 1956 — Section 14, 15

Citation : (1982) 51 STC 195

Hon'ble Judges : R.R. Rastogi, J;C.S.P. Singh, J

Bench : Division Bench

Advocate : R.R. Misra, for the Respondent

Final Decision : Dismissed

Judgement

C.S.P. Singh, J.—This is a revision by the Commissioner of Sales Tax, U.P., Lucknow, against the order passed by the Sales Tax Tribunal, Gorakhpur Bench, Gorakhpur.

2. The revision relates to the assessment year 1975-76. The assessee, apart from dealing in other articles, dealt in oil-seeds. His account books were accepted. The assessee claimed exemption in respect of the turnover of the sale of oil-seeds amounting to Rs. 60,741.23 on the ground that these sales were made on 2nd October, 1975 and it had already been taxed at the point of purchase and therefore could not be taxed at the point of sale to the consumer. The ground taken in support of this exemption was that oil-seeds were a declared commodity u/s 14 of the Central Sales Tax Act and could not be subjected to tax at more than one point in view of Section 15(a) of that very Act. The Sales Tax Officer did not accept this claim and the appeal filed by the assessee failed. The point, however, found favour with the Tribunal. The matter came up before a learned single Judge of this Court and he being of the view that there was a conflict of opinion between the decision in the case of Commissioner, Sales Tax v. Nirankari Engineering, Kanpur (page 197 injra) 1979 UPTC 1125 and the decision in Commissioner, Sales Tax v. Mathura Das Ram

Saran Das 1976 UPTC 518 has referred the matter to a Division Bench.

3. Section 14 of the Central Sales Tax Act declares certain goods to be of special importance in inter-State trade or commerce. Oil-seeds find a berth in Section 14(vi). Section 15(a) of this Act imposes restrictions and conditions in regard to tax on sale or purchase of declared goods within a State. Section 15(a) is relevant for the purposes of the present controversy. It enjoins that tax payable under a State law in respect of declared commodities shall not exceed four per cent of the sale or purchase price and such tax shall not be levied at more than one stage. Oil-seeds being declared goods u/s 14(vi) thus have to be granted benefit of Section 15(a). In case sales or purchase tax has been levied on oil-seeds at one point, it cannot be levied at any other subsequent stage. It is not disputed that the oil-seeds which are the subject-matter of the present revision had suffered purchase tax. This being so, they could not be subjected to tax again at the point of sale to the consumer, notwithstanding the notification issued u/s 3-AA of the Act. Neither Section 3-AA, nor the notification issued thereunder can override the provisions of Section 15(a) of the Central Sales Tax Act. This was so held by one of us in the case of Nirankari Engineering, Kanpur (page 197 *infra*); 1979 UPTC 1125 . This view of ours finds support from the decision of the Supreme Court in the case of Bhawani Cotton Mills Ltd. Vs. State of Punjab and Another, . The decision in the case of Mathura Das Ram Saran Das 1976 UPTC 518 is clearly distinguishable. In that case the question was as to whether cotton yarn could be subjected to tax at multiple-points notwithstanding that it had already suffered tax once. In that case the stocks of yarn which were subjected to tax were held in stock on 1st August, 1958 and were subjected to multiple point of tax, as a result of notification issued by the State Government on 1st August, 1958. The yarn in question has already suffered tax in the hands of the manufacturer and the question arose as to whether they could be subjected to tax again. A Division Bench of this Court following an earlier decision of another Division Bench in Commissioner of Sales Tax v. Har Saran Das and Sons (S.T.R. No. 539 of 1966 decided on 2nd January, 1969 -Allahabad High Court) held that they could be subject to tax at multiple points. The decision could not have been otherwise, for cotton yarn was not a declared commodity u/s 14 of the Central Sales Tax Act till 1st October, 1958. It came to be included in Section 14(ii-b) as from 1st October, 1958. Thus the restriction imposed by Section 15(a) of the Central Sales Tax Act did not operate so as to fetter the power of the State Government to impose multiple point of tax in respect of the cotton yarn up to 1st October, 1958. There as such arose no occasion to consider either Section 14 or Section 15 of the Central Sales Tax Act in that case. In the present case, Sections 14 and 15 of the Central Sales Tax Act have to be actively considered and on a consideration of these provisions, we are in no doubt that oil-seeds having suffered tax once cannot be subject to tax again, in view of the restriction imposed by Section 15(a) of the Central Sales Tax Act.

4. We accordingly dismiss the revision. There shall however be no order as to costs.