courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 11/09/2026

(1980) 02 AHC CK 0041

In the Allahabad High Court

Case No : Sales Tax Revision No. 332 of 1972

Commissioner, Sales Tax APPELLANT

Vs

Jullundur Motor Agency RESPONDENT

Date of Decision : 29-02-1980

Acts Referred:

Uttar Pradesh Sales Tax Act, 1948 — Section 15A(1)(i)
Uttar Pradesh Sales Tax Act, 1948 — Section 15A(1)(i)
Uttar Pradesh Sales Tax Act, 1948 — Section 15A(1)(i)

Citation : (1982) 50 STC 284

Hon'ble Judges : R.M. Sahai, J

Bench : Single Bench

Advocate : Bharatji Agrawal, for the Respondent

Final Decision : Dismissed

Judgement

R.M. Sahai, J.—The following question of law has been raised in this revision filed u/s 11 by the Commissioner of Sales Tax :

Whether, on the facts and in the circumstances of the case and the material available on record, the Additional Revising Authority was legally justified to impose penalty of less than even 10 per cent of the admitted tax which is contrary to the statutory provisions as per Section 15-A(1)(i) of the U.P. Sales Tax Act ?

2. It is not disputed that the assessee filed a cheque of Rs. 43,854 towards admitted tax along with the first quarterly return for 1976-77. This was dishonoured on 28th August, 1976. The assessee was intimated and in compliance the amount was deposited by chalan on 30th August, 1976. As there was default in payment of admitted tax, notice u/s 15-A was issued and penalty of Rs. 4,385.40 was imposed. In the appeal it was reduced to Rs. 1,000. Against the reduction of penalty the Commissioner filed a revision but it was dismissed.

3. In Hindustan Steel Ltd. Vs. State of Orissa, a similar situation arose and it was

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/commissioner-sales-tax-appellant-...

held by their Lordships of the Supreme Court:

Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute.

4. The question of law raised therefore stands answered by this decision. It has not been found that the assessee was guilty of mala fide. Apart from it the moment it was brought to the assessee''s notice that cheque was dishonoured it deposited the amount within two days. If, in these circumstances, the appellate authority reduced the penalty even below the minimum prescribed it cannot be said that exercise of discretion was not judicial.

5. In the result this revision fails and is dismissed. But there shall be no order as to costs.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/commissioner-sales-tax-appellant-...