(2003) 03 AHC CK 0204

In the Allahabad High Court

Case No : Sales Tax Revision No''s. 371, 372, 398 and 399 of 1991

Commissioner, Sales Tax — APPELLANT

Vs

Mukund Das Nar Singh Das — RESPONDENT

Date of Decision : 27-03-2003

Acts Referred:
Uttar Pradesh Trade Tax Act, 1948 — Section 21, 8(1)

Citation : (2006) 143 STC 122

Hon'ble Judges : Rajes Kumar, J

Bench : Single Bench

Advocate : M.R. Jaiswal, for the Appellant; Piyush Agrawal, for the Respondent

Final Decision : Dismissed

Judgement

Rajes Kumar, J.—These are four revisions filed by the Commissioner of Sales Tax against the order of Tribunal dated November 17, 1990 for the assessment years 1981-82, 1982-83, 1983-84 and 1984-85.

2. The dealer-opposite party purchased old ornaments and not admitted any liability of tax on the purchases. The assessing authority in the original assessment proceeding passed an order under Rule 41(7) and did not levy any tax on the purchases of old ornaments. Subsequently, a proceeding u/s 21 was initiated on the ground that the old ornament was liable to tax as bullion at the rate of 1 per cent on the point of purchase w.e.f. September 7, 1981, accordingly in the order passed u/s 21 for all the years tax was levied on the purchases of old ornaments at the rate of 1 per cent. Interest u/s 8(1) was also demanded treating the amount of tax assessed u/s 21 of the Act as admitted tax. Dealer filed appeal before Deputy Commissioner (Appeals) and challenged the levy of tax and interest which were rejected. In appeals before the Tribunal, the dealer challenged the levy of tax on the purchases of old ornaments and also challenged demand of interest u/s 8(1). Tribunal allowed the appeal in part. Tribunal upheld the levy of tax on the purchases of old ornaments at the rate of 1 per cent in view of the Notification No. S.T.-II-5787/X-10(1)-80 dated September 7, 1981 for

the period after September 7, 1981 but deleted the interest u/s 8(1) of the Act. Being aggrieved by the order of Tribunal, the present revision has been filed.

3. I have heard Sri M.R. Jaiswal, learned Standing Counsel and Sri Piyush Agrawal, learned Counsel for the opposite party.

4. Tribunal has held that at no stage liability of tax was admitted and the imposition of tax was debatable and that being so the assessee can be said to be under bona fide belief that the purchase tax was not liable. Relying upon the judgment in case of Annapurna Biscuit Manufacturing Co. and Others Vs. The State of Uttar Pradesh and Another, and Commissioner of Sales Tax v. Rohtas Industries Ltd. reported in 1989 ATJ 96, Tribunal has held that the demand of interest was not justified. In my opinion the view of the Tribunal on the facts and circumstances of the case cannot be said to be erroneous.

5. In the result, all the revisions are dismissed.