(1987) 03 AHC CK 0026

In the Allahabad High Court

Case No : Sales Tax Revision No. 622 of 1982

Commissioner, Sales Tax — APPELLANT

Vs

Ram Chandra Ram Sheo Shankar Prasad — RESPONDENT

Date of Decision : 06-03-1987

Acts Referred:
Central Excises and Salt Act, 1944 — Section 14, 15

Citation : (1987) 67 STC 261

Hon'ble Judges : Om Prakash, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Om Prakash, J.—This is a revision for the assessment year 1977-78, against the Tribunal''s order dated 10th August, 1982, by the Revenue.

2. None has appeared on behalf of the dealer and, therefore, I have heard only learned Standing Counsel. Undisputedly, the foodgrain was declared commodity u/s 14 of the Central Sales Tax Act. As the sales were effected to unregistered dealers, the department sought to impose tax u/s 3-D(2) of the U. P. Sales Tax Act, 1948 (for short the Act, 1948). Before the Tribunal, it was contended on behalf of the dealer that the assessee had made purchases without form 3-Ka from the arhtias and, therefore, the inference could be drawn that the tax was paid by the selling dealer as the tax was on the point of sale to consumer. The submission of the learned Standing Counsel is that the declared goods cannot be subjected to tax at a second stage and unless there is a categorical finding of the Tribunal that the goods already suffered tax before the purchases were made by the assessee, the assessee cannot be exonerated from the tax liability u/s 3-D(2) of the Act. Since the purchases were made without form 3-Ka, the only inference that can be drawn is that the sales were effected to the consumer and the selling dealer was liable to pay tax but no inference can legitimately be drawn that the tax was already paid by the selling dealer. Section 15, Clause (a), of the Central Sales Tax Act does not refer to mere liability, but Clause (a) says that tax will not

be levied at more than one stage. So it was necessary for the Tribunal to find out whether the goods already suffered tax. If tax has already been levied then surely the goods cannot be subjected to tax again within the meaning of Clause (a) of Section 15. As no inference can be drawn that the goods already suffered tax, the matter requires reconsideration.

3. The revision is, therefore, allowed, the Tribunal''s order dated 10th August, 1982, is set aside and the case is sent back to the Tribunal with a direction that it will record a clear finding whether the goods in question already suffered tax before the assessee made the purchases. If the goods already suffered tax, then the Tribunal may reach the same conclusion, as it reached in the impugned order, otherwise the case will be redecided according to law. No order as to costs.