(2000) 09 AHC CK 0041

In the Allahabad High Court

Case No : Sales Tax Revision No. 1104 of 1991

Commissioner, Sales Tax APPELLANT

Vs

S.R. Paper Cores RESPONDENT

Date of Decision : 29-09-2000

Acts Referred:

Uttar Pradesh Sales Tax Act, 1948 — Section 11, 15A(1), 28A

Citation : (2001) 123 STC 489

Hon'ble Judges : R.K. Agrawal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.K. Agrawal, J.—The Commissioner of Trade Tax, U.P., Luck-now, feeling aggrieved by the order dated April 8, 1991, passed by the Sales Tax Tribunal, Meerut Bench I, Meerut, in Appeal No. 728 of 1988 (1986-87) has filed the present revision u/s 11 of the U.P. Sales Tax Act, 1948.

2. The facts of the case in brief are that the assessee-opposite party is registered dealer under the provisions of the U.P. Sales Tax Act. It had imported certain goods against form XXXI from Calcutta. The consignment was duly accompanied by the sale invoice but in the gate pass instead of the name of the assessee-opposite party, the name mentioned was S.K. Tubes. The Sales Tax Officer (A), Mohan Nagar, Sales Tax Check-post, Ghaziabad, informed the assessing authority that the goods were released against deposit of security for alleged violation of Section 28-A of the Act. Penalty proceedings u/s 15A(1)(o) of the U.P. Sales Tax Act, 1948 were initiated and vide order dated November 27, 1987 the assessing authority imposed a sum of Rs. 10,400 as penalty. The imposition of penalty was upheld in the first appeal filed by the assessee. However, in the second appeal filed by the assessee before the Tribunal, the Tribunal vide impugned order has allowed the appeal and it had deleted the imposition of penalty. It had found that there was no intention to evade any payment of tax as the consignment was duly accompanied by bill and form XXXI. Merely because in the gate pass the name of

S.K. Tubes was mentioned, no violation of Section 28-A of the Act can be said. It further found that there was no intention to evade any payment of tax. The findings recorded by the Tribunal are pure findings of fact which are based on appreciation of evidence and material on record. The order of the Tribunal does not suffer from any legal infirmity in law. The revision lacks merit and is dismissed.