(1978) 08 AHC CK 0076

In the Allahabad High Court

Case No : S.T.R. Appeal No. 398 of 1975

Commissioner, Sales Tax — APPELLANT

Vs

Suraj Mal Jagdish Narain — RESPONDENT

Date of Decision : 31-08-1978

Acts Referred:
Central Sales Tax Act, 1956 — Section 2

Citation : (1979) 43 STC 259

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

Bench : Single Bench

Final Decision : Disposed Off

Judgement

C.S.P. Singh, J.—The revising authority has referred the following question for opinion of this Court :

Whether, on the facts and in the circumstances of the case, the supply of bardana to ex-U. P. principals would not amount to inter-State sales ?

2. The assessee was acting as a purchasing agent for ex-U. P. principals for purchase and supply of foodgrains. After making purchases of foodgrains, it purchased gunny bags, as and when required for packing the foodgrains, from M/s. Agrawal Trading Co. Thereafter the packed foodgrains were sent to the ex-U. P. principals. The price for which bardana had been purchased by the assessee for use as a packing material for foodgrains was included in the taxable turnover of the assessee for the purposes of the Central Sales Tax Act. The appeal filed by the assessee succeeded as it was held that the assessee had not sold the gunny bags to its ex-U. P. principals. On revision being filed, the Judge (Revisions) came to the conclusion that the assessee was acting as a purchasing agent for the purchase of foodgrains on behalf of the ex-U. P. principals and further he had authority to purchase the packing materials for packing the foodgrains and despatching them. On this view, he held that the price of bardana could not be included in the sales turnover of the assessee for purposes of the Central Sales

Tax Act.

3. Before a particular amount can be included in the turnover of an assessee for the purposes of the Central Sales Tax Act, it must be the sale price received by the dealer in respect of the sales of goods [see Section 2(j) of the Act]. As the purchases have been made by the assessee of gunny bags acting as an agent of the ex-U. P. principals, the sale of bardana was by the supplier to the ex-U. P. principals, for which the supplier received the price. The sale price could not, as such, be included in the turnover of the assessee.

4. As there was no sale of gunny bags by the assessee, no tax under the Central Sales Tax Act could be imposed.

5. The question referred is answered by saying that the supply of bardana to the ex-U. P. principals would not amount to inter-State sales. As none has appeared on behalf of the assessee there has been no order as to costs.