**(2007) 01 AHC CK 0036**

**In the Allahabad High Court**

Commissioner, Trade Tax APPELLANT

Vs

Anil Kumar Singh RESPONDENT

**Date of Decision :** 05-01-2007

**Acts Referred:**
Uttar Pradesh Trade Tax Act, 1948 — Section 11

**Citation :** (2009) 23 VST 80

**Hon'ble Judges :** Rajes Kumar, J

**Bench :** Single Bench

**Final Decision :** Dismissed

## Judgement

Rajes Kumar, J.—These two revisions u/s 11 of the U.P. Trade Tax Act, 1948 (hereinafter referred to as, "the Act") are directed against the order of the Tribunal dated April 10, 2000 relating to the assessment years 1984-85 and 1985-86.

2. It appears that for both the assessment years, assessment orders were passed ex parte. The dealer/opposite party (hereinafter referred to as, "the dealer") filed applications u/s 30 of the Act to reopen the ex parte assessment orders. The applications u/s 30 of the Act were rejected and against the said orders, appeals were filed. First appellate authority allowed the applications and set aside the orders passed u/s 30 of the Act and reopened the cases and directed the assessing authority to pass the assessment orders afresh after giving opportunity of hearing to the dealer. In pursuance of the appellate orders, assessing authority passed the assessment orders. The dealer challenged the assessment orders on the ground that both the assessment orders were barred by limitation. It was contended that the assessment orders were passed beyond the period specified u/s 21(5) of the Act. First appellate authority has accepted the plea of the dealer and allowed both the appeals and quashed the assessment orders being barred by limitation. The Commissioner of Trade Tax filed appeals before the Tribunal. The Tribunal by the impugned order dismissed both the appeals and confirmed the order of the first appellate authority.

 

3. Heard learned Counsel for the parties.

4. I do not find any error in the order of the Tribunal. Issue involved is squarely covered by the Full Bench decision of this Court in the case of Minakshi Udyog, Agra v. Commissioner of Trade Tax reported in [2005] UPTC 143 in which Full Bench of this Court held that where the case is reopened by the first appellate authority limitation provided u/s 21(5) of the Act will apply. Admittedly, the assessment orders had been passed beyond the period specified u/s 21(5) of the Act.

5. In the result, both the revisions fail and are accordingly, dismissed.

 