**(2007) 01 AHC CK 0005**

**In the Allahabad High Court**

Commissioner, Trade Tax APPELLANT

Vs

Bookman India RESPONDENT

**Date of Decision :** 03-01-2007

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

**Citation :** (2008) 15 VST 447

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

**Bench :** Single Bench

**Final Decision :** Dismissed

## Judgement

Rajes Kumar, J.—Present four 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 June 22, 2004 relating to the assessment years 1995-96, 1996-97 and 1998-99 (first part and second part) by which the Tribunal has deleted the penalty levied u/s 10A of the Central Act for the alleged default u/s 10(d) of the Central Sales Tax Act, 1956 (hereinafter referred to as "the Central Act").

2. The dealer/opposite party (hereinafter referred to as "the dealer") was registered under the Central Act and was entitled to purchase papers at concessional rate of tax from outside the State of U. P. for use in the manufacturing of books. During the years under consideration, dealer had purchased papers at Delhi and issued form C in respect thereof. Papers purchased at Delhi have been got printed at Delhi and thereafter brought inside the State of U. P. for binding at Meerut The assessing authority levied the penalty on the ground that the purchases of papers were not in the course of inter-State trade inasmuch as the papers for which form C were issued have not been brought inside the State of U.P. as such and have been given to the printer at Delhi for printing purposes. The assessing authority held that the dealer had violated Section 10(d) of the Central Act and levied the penalty u/s 10A of the Central Act. The case of the dealer was that there was no violation of Clause (d) of Section 10 of the Central Act. It was submitted that registration certificate was

 

granted for the purchases of papers for use in the manufacturing of books. Dealer admittedly, used the purchased papers in the manufacturing of books and had not disposed of otherwise for any other purposes. Claim of the dealer has not been accepted by the first appellate authority, but has been accepted by the Tribunal. On the facts of the case, the Tribunal held that there was no violation of Clause (d) of Section 10 of the Central Act.

3. Heard the learned Standing Counsel.

4. I do not find any error in the order of the Tribunal. Section 10(d) of the Central Act as it existed at the relevant time reads as follows:

10. Penalties.-If any person:

(d) after purchasing any goods for any of the purposes specified in Clause (b) or Clause (c) or Clause (d) of Sub-section (3) of Section 8 fails, without reasonable excuse, to make use of the goods for any such purpose.

5. Clause (d) of Section 10 of the Central Act referred hereinabove applies in a situation where goods purchased not used for any of the purposes specified in Clause (b) or Clause (c) or Clause (d) of Sub-section (3) of Section 8 of the Central Act. Clause (b) of Section 8 of the Central Act covers purchases of goods intended for resale or for use in the manufacture or processing of goods for sale. Clauses (c) and (d) of Sub-section (3) of Section 8 of the Central Act cover the containers or other materials specified in the certificate of registration intended for being used for the packing of goods for sale.

6. Clauses (b), (c) and (d) of Sub-section (3) of Section 8 of the Central Act read as follows:

(3) The goods referred to in Clause (b) of Sub-section (1):

(b) are goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for resale by him or subject to any rules made by the Central Government in this behalf, for use by him in the manufacture or processing of goods for sale (in the telecommunications network or) in mining or in the generation or distribution of electricity or any other form of power ;

(c) are containers or other material specified in the certificate of registration of the registered dealer purchasing the goods, being containers or materials intended for being used for the packing of goods for sale ;

(d) are containers or other materials used for the packing of any goods or classes of goods specified in the certificate of registration referred to in Clause (b) or for the packing of any containers or other materials specified in the certificate of registration referred to in Clause (c).

7. Perusal of the aforesaid clauses shows that the case of the dealer does not fall under any of the above clause and inasmuch as dealer had not failed to use the

goods for the purposes specified in the aforesaid clauses. As stated above, dealer was admittedly granted registration certificate for the purchases of papers for use in the manufacturing of books. Papers which were purchased at Delhi were admittedly used in the manufacturing of books. Therefore, it cannot be said that the paper had been used for any other purposes specified in Clauses (b), (c) and (d) of Sub-section (3) of Section 8 of the Central Act.

8. In the circumstances, the Tribunal has rightly deleted the penalty. The order of the Tribunal is, accordingly, upheld.

9. In the result, all the four revisions fail and are, accordingly, dismissed.