

(2007) 04 AHC CK 0055
In the Allahabad High Court

Commissioner, Trade Tax

APPELLANT

Vs

Goel India

RESPONDENT

Date of Decision : 09-04-2007

Acts Referred:

Central Sales Tax Act, 1956 — Section 8(3)(b)
Uttar Pradesh Trade Tax Act, 1948 — Section 4B(2)

Citation : (2009) 23 VST 138

Hon'ble Judges : Vikram Nath, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Vikram Nath, J.—This is a revision filed by the Revenue/Department against the order of the Trade Tax Tribunal, Moradabad Bench, dated February 31, 2001 whereby the second appeal of the assessee has been allowed and the assessing authority has been directed to add high speed diesel in the Central Registration Certificate. The assessee deals in the business of manufacturing and sale of brass artwares. The assessee had applied for insertion of generator and diesel in Central Registration Certificate for the purpose of getting these items at concessional rate of tax. The assessing authority and the first appellate authority declined the request of the assessee.

2. Aggrieved by the same, it filed a second appeal which has been allowed by the impugned order. The question as to whether use of fuel in running of generator would be covered by Rule 13 of the Central Sales Tax (Registration and Turnover) Rules, 1957 and Section 8(3)(b) of the Central Sales Tax Act, 1956.

3. Section 8(3)(b) of the Central Sales Tax Act reads as follows:

...in any other case, 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 for use by him in the manufacture of goods for sale or for use by him in the execution of any contract:

4. Further Rule 13 of the Central Sales Tax (Registration and Turnover) Rules, 1957 reads as follows:

Rule 13. The goods referred to in Clause (b) of Sub-section (3) of Section 8, which a registered dealer may purchase, shall be goods intended for use by him as raw materials, processing materials, machinery, plant, equipment, tools, stores, spare parts, accessories, fuel, or lubricants, in the manufacture or processing of goods for sale, or in mining, or in the generation or distribution of electricity or any other form of power.

5. From the perusal of the aforesaid provision, it is clear that any fuel or lubricants used for in the manufacture or processing of goods for sale, or in mining, or in the generation or distribution of electricity or any other form of power would be entitled to pay tax under the provision of Section 8(3)(b) of the Central Sales Tax Act.

6. Further this question has been subsequently dealt with in the case of Rama Paper Mills Limited and Vam Organic Chemicals Limited Vs. State of Uttar Pradesh and Others, The Division Bench of this Court in the said case while dealing with Section 4B(2) of the U.P. Trade Tax Act has held that diesel oil and other fuels used for running generator sets would be entitled to be treated as part of the manufacturing process. Further this Court in recent decision dated March 30, 2007 in Trade Tax Revision No. 753 of 2001 Commissioner Trade Tax v. Shubham Cane Crusher See [2009] 20 VST 104 has taken similar view under the provisions of the Central Sales Tax Act.

7. In this view of the matter, the view expressed by the Tribunal does not call for any interference.

8. The revision is, accordingly, dismissed.