(2007) 03 AHC CK 0046

In the Allahabad High Court

Commissioner, Trade Tax — APPELLANT

Vs

H.C.L. Limited — RESPONDENT

Date of Decision : 12-03-2007

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

Citation : (2009) 23 VST 204

Hon'ble Judges : Rajes Kumar, J

Bench : Single Bench

Final Decision : Allowed

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 October 30, 2000 relating to the assessment year 1989-90 both under the U.P. Trade Tax Act as well as the Central Sales Tax Act, 1956.

2. Dealer/opposite party (hereinafter referred to as, "the dealer") was engaged in the business of manufacture and sale of photocopier machine and was holding eligibility certificate u/s 4A of the Act. In view of the eligibility certificate turnover of the dealer of the manufactured photocopier machine was not liable to tax. Along with photocopier machine dealer had also sold toner and developer and claimed exemption on the turnover of toner and developer as part of the photocopier machine. The claim of the dealer was rejected by the assessing authority on the ground that toner and developer was not the part of the photocopier machine. However, the claim was allowed by the first appellate authority and by the Tribunal.

3. Heard learned Counsel for the parties.

4. Learned Counsel for both the parties agreed that the issue involved in both the revisions are squarely covered by the decision of this Court in the case of Commissioner, Trade Tax, U.P., Lucknow v. Modi Xerox Ltd., Rampur reported in [2005] 26 NTN 47.

5. Respectfully following the aforesaid decision of this Court it is held that the toner and developer are not the parts of the photocopier machine and they are not eligible for exemption.

6. In the result, both the revisions are allowed. Order of the Tribunal is set aside. Tribunal is directed to pass appropriate orders u/s 11(8) of the Act.