
(2008) 08 AHC CK 0355
In the Allahabad High Court

Commissioner, Trade Tax

APPELLANT

Vs

Mercury Lighting Fixtures

RESPONDENT

Date of Decision : 01-08-2008

Acts Referred:

Uttar Pradesh Trade Tax Act, 1948 — Section 4A

Citation : (2009) 26 VST 412

Hon'ble Judges : Prakesh Krishna, J

Bench : Single Bench

Judgement

Prakesh Krishna, J.—Heard the counsel for the parties and perused the record.

2. The dealer-opposite party was carrying on the business of manufacturing and sale of electrical goods. It was a "new unit" within the meaning of Section 4A of the U.P. Trade Tax Act, 1948 and was granted exemption on the turnover of sale for the period up to March 31, 1990, in pursuance of the Notification No. 7558 dated December 26, 1985. In the assessment proceedings for the assessment year 1990-91, the dealer-opposite party took a stand that the goods which were manufactured up to March 31, 1990 and were in the closing stock of the year stored and sold thereafter were not liable to be taxed in view of the exemption granted to it. The said contention was not accepted by the assessing officer as well as by the first appellate authority. The Tribunal by the order under revision took the view that on the goods manufactured up to March 31, 1990, the dealer-opposite party is entitled for exemption from sales tax on such goods, notwithstanding the fact that those goods were sold subsequent to March 31, 1990, by the order passed in Second Appeal No. 469 of 1999. In the memo of revision, the following question of law has been sought to be raised:

1. Whether, on the facts and in the circumstances of the case, the Trade Tax Tribunal is legally justified to hold that the dealer is entitled for exemption under the provisions of Section 4A on the sale of stock after March 31, 1990 despite, the exemption being allowed up to March 31, 1990 on the turnover of sale?

3. Heard Shri B.K. Pandey, learned Standing Counsel for the Department. None is present on behalf of the dealer-opposite party to contest the revision. Affidavit of service has been filed which shows that notice has been duly served on Shri Sanjeev Kumar, one of the partners of the firm. The service of notice is held sufficient.

4. The only question mooted in the above revision is as to whether the goods manufactured by a dealer having eligibility certificate during the course of exemption period but sold after the expiry of the exemption period is liable to be taxed or not.

5. Section 4A provides for exemption authorising the State Government to issue exemption notification granting exemption declaring that the turnover of sales in respect of such goods for which the notification has been issued shall, during such period not exceeding 15 years from the date specified, be exempted from payment of tax. Use of words "turnover of sales" and "during such period not exceeding 15 years" is indicative of the fact that the exemption is granted on such turnover of goods which were manufactured and sold during the exemption period and not otherwise. The notification issued under the said Act, relevant to the facts of the present case, also provides for grant of exemption on the turnover of sales of such goods for the period specified in column 3. The column 3 of the table in the notification provides period of exemption in the case of the dealer of Muzaffarnagar for five years if the capital investment exceeds Rs. 3,00,000. The very fact that period of exemption has been provided with reference to the turnover of sale is indicative of the legislative intention that the goods manufactured during the period of exemption and sold during the said period are entitled to exemption and not such goods which were manufactured during the exemption period but sold after its expiry.

6. I find sufficient force in the arguments of the learned Standing Counsel for the Department. The Tribunal was not right in holding that the goods manufactured during the exemption period but sold after expiry of the exemption period would also be entitled for exemption from tax. It is not legally correct. The revision succeeds and is allowed. The impugned order of the Tribunal is set aside and the Second Appeal No. 469 of 1999 filed before the Tribunal is dismissed. No order as to costs.