(2006) 01 AHC CK 0002

In the Allahabad High Court

Commissioner, Trade Tax — APPELLANT

Vs

Mewalal Dhrup Chandra — RESPONDENT

Date of Decision : 20-01-2006

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

Citation : (2007) 6 VST 668

Hon'ble Judges : Rajes Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajes Kumar, J.—These three 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 January 29,1999 for the assessment year 1985-86, under the U.P. Trade Tax Act, 1948 and Central Sales Tax Act, 1956 and 1986-87 under Central Sales Tax Act, 1956, respectively.

2. The dealer/opposite party (hereinafter referred to as "the dealer") claimed to have made the purchases for and on behalf of ex-U.P. principal and after purchasing the goods on the basis of the order of the ex-U.P. principal, same had been despatched to the destination of the ex-U.P. principal outside the State of U.P. It was contended that the purchases were made in the course of inter-State purchases and the movement of goods outside the State of U.P. was otherwise than in the course of inter-State purchases. It appears that the assessing authority had not accepted the plea of the dealer. Matter went in appeal. The first appellate authority remanded the matter back to the assessing authority to examine the transactions afresh from the books of account. Books of account were produced and the claim was reiterated. The assessing authority had not accepted the claim on the ground that for the assessment year 1985-86 enquiry was made in the year 1997 and it was found that the farmers from whom the purchases have been claimed were not traceable. The dealer filed appeal before the Deputy Commissioner (Appeals). The Deputy Commissioner (Appeals)

allowed the appeal and deleted the tax. The Deputy Commissioner (Appeals) examined the transactions in detail and it has been held that in 6R the name and address of the farmers and the name of the ex-U.P. principal was also mentioned for whom the purchases were made and in 9R also the name of ex-U. P. principal was mentioned. It was also held that the entries were incorporated in stock register and satti bahi in the name of ex-U.P. principal. On these facts, it has been held that the purchases were made for and on behalf of ex-U.P. principal and after the purchases, goods have been despatched to the destination of the ex-U.P. principal. The first appellate authority also held that enquiry made in the year 1997, after the lapse of 12 years had not been confronted to the dealer and the opportunity of cross-examination has not been given and thus, held that the reliance cannot be placed on such enquiry. Commissioner of Trade Tax filed appeal before the Tribunal. Tribunal by the impugned order upheld the order of the first appellate authority.

3. Heard learned Counsel for the parties.

4. The learned Standing Counsel is not able to show any error in the order of the Tribunal. Finding of the Tribunal that the purchases were made for and on behalf of ex-U.P. principal and the same had been despatched to the destination of ex-U.P. principal in the course of inter-State purchases, is finding of fact, based on the material on record. Issue involved is covered by the decision of the apex Court in the case of Commissioner of Sales Tax v. Bakhtawar Lal Kailash Chand Arhti reported in [1992] 87 STC 196 : [1992] UPTC 971.

In the result, revision fails and is accordingly, dismissed.

