(2007) 04 AHC CK 0329

In the Allahabad High Court

Commissioner, Trade Tax — APPELLANT

Vs

Mohan and CO. — RESPONDENT

Date of Decision : 02-04-2007

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

Citation : (2009) 20 VST 576

Hon'ble Judges : Rajes Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajes Kumar, J.—Present revision u/s 11 of the U.P. Trade Tax Act, 1948 (hereinafter referred to as "the Act") is directed against the order of the Tribunal dated March 3, 2001 relating to the assessment year 1987-88.

2.. At the instance of the Revenue following questions have been raised:

A. Whether on the facts and in the circumstances of the case, the Trade Tax Tribunal is legally justified to hold that the tarbuj seeds sold by the dealer were exempt under Notification No. 7038 dated January 31, 1985 despite the honourable High Court has taken contrary view in the cases of Jagannath Prasad Raghunandan Prasad v. Commissioner of Sales Tax [1992] UPTC 716 and Deepak Brothers v. Commissioner of Trade Tax [2000] 16 NTN 144?

B. Whether the Trade Tax Tribunal is legally justified to hold that the coconut powder is taxable as oil seeds despite the dealer has sold the coconut powder to the sweet meat makers who have used as it as dry fruit and this powder could not be used as oil seeds?

C. Whether the Trade Tax Tribunal is legally justified to allow the exemption on the stock of Rs. 37,598 despite the dealer has failed to submit any evidence to prove his contention?

3. Heard learned Counsel for the parties.

4. I have perused the order of Tribunal and the authorities below.

5. So far as question No. 1 is concerned, this Court in the case of CTT v. Heeralal Ram Das, Visheshwarganj, Varanasi reported in [1999] 30 STR 465 held that tarbuj seed is a vegetable seed exempted from tax under Notification No. ST-II-7038/X-7(23)/83-U.P. Act XV/48-Order-85, dated January 31, 1985. Order of the Tribunal in this regard is upheld.

6. So far as question No. 2 is concerned, which relates to the taxability of coconut powder this Court in the case of Commissioner of Sales Tax, U.P. v. Gokul Chandra Bhatia, Ghaziabad reported in [1992] 23 ATJ 580 held that coconut and coconut powder are similar commodity and are taxable at four per cent.

7. So far as third question is concerned, the Tribunal held that business was closed and the closing stock of Rs. 37,598 was dead stock and not saleable. Finding of the Tribunal is finding of fact. No question of law is required.

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

