(2016) 11 AHC CK 0181

In the Allahabad High Court

Case No : Trade Tax Revision No. 137 of 2012

Deepu Coal Depot APPELLANT

Vs

Commissioner, Commercial Tax RESPONDENT

Date of Decision : 29-11-2016

Acts Referred:
Uttar Pradesh Trade Tax Act, 1948 — Section 7(3)

Citation : (2017) 95 UPTC 81

Hon'ble Judges : Surya Prakash Kesarwani, J.

Bench : Single Bench

Advocate : Rakesh Ranjan Agrawal, Suyash Agrawal, Advocates, for the Applicant; Sri B.K. Pandey, Standing Counsel, for the Opposite Party

Final Decision : Dismissed

Judgement

Surya Prakash Kesarwani, J.—Heard Sri Suyash Agrawal, learned counsel for the applicant and Sri B.K. Pandey, learned standing counsel for the respondent.

2. This revision has been filed challenging the order dated 23.5.2011 in Second Appeal No.178 of 2011 (2005-2006) passed by the Member, Commercial Tax Tribunal, Allahabad Bench, Allahabad (Division Bench).

3. Briefly stated, the facts of the present case are that the applicant is a registered dealer engage in trading of coal. During the assessment year 2005-06, he imported 10350 MT coal and disclosed average selling rate of Rs.2075.58 per MT coal. On the basis of materials available on record, the Assessing Authority found the disclosed purchase rate to be very low. Consequently, on consideration of materials available on record, he rejected the books of accounts and determined the average selling rate at Rs.4,000/- per MT. He, thus, determined the sales turnover at Rs.4.14 crores and imposed tax @ 4% which comes to Rs.16,56,000/-. The assessee preferred First Appeal before the Appellate Authority which was partly allowed on the basis of instances of selling rates of

other dealers of the same locality. On consideration of such instances, the First Appellate Authority determined the selling rate of Rs.2800/- per MT and accordingly it reduced the turnover and tax. Aggrieved with this order, the applicant filed Second Appeal before the Tribunal which was partly allowed by the impugned judgment reducing the selling rate to Rs.2750/- per MT as was determined in the case of M/s M.A. Haleem & Sons. The aforesaid selling rate in the case of M/s M.A. Haleem & Sons was relied by the applicant before the First Appellate Authority. Rejection of books of accounts and best judgment assessment on the facts and circumstances of the present case, are not disputed by learned counsel for the applicant. The Tribunal has itself reduced the selling rate. Under the circumstances, I do not find any infirmity in the impugned order of the Tribunal. Revision lacks merit and therefore deserves to be dismissed.

4. In view of the aforesaid, the revision is dismissed.

