**(1968) 11 P&H CK 0024**

**In the Punjab And Haryana At Chandigarh**

**Case No :** L.P.A. No. 503 of 1968

Dr. Baldev Raj APPELLANT

Vs

The State of Punjab and Another RESPONDENT

**Date of Decision :** 27-11-1968

**Acts Referred:**
Punjab General Sales Tax Act, 1948 — Section 21

**Citation :** (1969) 24 STC 173

**Hon'ble Judges :** S.B. Capoor, J;R.S. Narula, J

**Bench :** Division Bench

**Advocate :** G.C. Mittal, for the Appellant; D.C. Ahluwalia, for the Respondent

**Final Decision :** Allowed

## Judgement

S.B. Capoor, J.—This Letters Patent appeal is directed against the order of the learned Single Judge dated the 30th August, 1968, whereby the writ petition of Dr. Baldev Raj, the appellant, was dismissed.

2. In that writ petition the appellant had challenged the order dated the 17th January, 1966, passed by the Joint Excise and Taxation Commissioner, Punjab, in exercise of the powers u/s 21(1) of the Punjab General Sales Tax Act, 1948 ; this order is copy annexure ''B'' to the petition. This order was in pursuance of the suo motu action taken by this officer and he had set aside the appellate order of the Additional Deputy Excise and Taxation Commissioner, Punjab, Patiala (copy annexure ''A'' to the petition) dated the 9th December, 1964. In that order the Deputy Excise and Taxation Commissioner had held that the appellant was not a chemist and he could not, therefore, be termed as a manufacturer of medicines which may be sold to the public at large. In this aspect of the matter, the appellant could not be termed to be a dealer. The Additional Deputy Excise and Taxation Commissioner in coming to this conclusion had followed the judgment of the Allahabad High Court in the case of Dr. Sukh Deo v. Commissioner of Sales Tax, Lucknow [1963] 14 S.T.C. 581 that the preparation of medicines in the prescription of the assessee did not amount to manufacture of medicines and

 

pharmaceutical preparations within the meaning of the notification.

3. Mr. G.C. Mittal, learned counsel for the appellant, has brought to our notice that the Supreme Court in Civil Appeal No. 2458 of 1966, Commissioner of Sales Tax, U.P. v. Dr. Sukh Deo [1969] 23 S.T.C. 385 has upheld the judgment of the Allahabad High Court. This means that the decision given by the Additional Deputy Excise and Taxation Commissioner, Punjab, was a correct decision in the case and so the impugned order of the 17th January, 1966, by the Joint Excise and Taxation Commissioner, Punjab, has to be quashed.

4. In the result, the Letters Patent appeal is allowed and the order of the Additional Deputy Excise and Taxation Commissioner, Punjab, Patiala, restored and the order of the learned Single Judge is set aside.

5. There will be no order as to costs.

R.S. Narula, J.

6. I agree.

 