(1985) 09 AHC CK 0049

In the Allahabad High Court

Case No : Sales Tax Revision No. 291 of 1985

Gupta Cycle Stores — APPELLANT

Vs

Commissioner, Sales Tax — RESPONDENT

Date of Decision : 30-09-1985

Acts Referred:
Uttar Pradesh Sales Tax Act, 1948 — Section 11(8)

Citation : (1986) 62 STC 205

Hon'ble Judges : S.K. Dhaon, J

Bench : Single Bench

Advocate : V. Singh, for the Appellant; The Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

S.K. Dhaon, J.—This is assessee''s revision. It is directed against an order dated 12th March, 1985, passed by the U.P. Sales Tax Tribunal (hereinafter referred to as the Tribunal).

2. According to the order the assessee was absent at the time when the appeal was called out for hearing in spite of due service. Accordingly the Tribunal proceeded to dispose off the appeal. The Tribunal has in the order stated that since the assessee is not present therefore it is not possible to make any further probe into the matter. It therefore felt that it had no option but to uphold the order of the first appellate authority.

3. The Tribunal having been constituted as the last and final court of appeal on fact and law is required to give its decision on the appeal. Even in the absence of the appellant, it is expected to go into the matter itself, apply its mind and thereafter give its decision. It has to record reason in support of its decision. In this case the Tribunal has failed to perform its statutory duty. Its order therefore is liable to be set aside on this short ground.

4. The revision succeeds and is allowed. The impugned order of the Tribunal

dated 12th March, 1985, is set aside. It is directed to rehear the appeal of the assessee after giving a proper notice and dispose of the same on merits and in accordance with law and also in the light of the cognizance of Section 11(8) of the U.P. Sales Tax Act.

5. The parties are directed to bear their own costs.