(1971) 08 AHC CK 0004

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 5372 of 1970

H.T. Chemical Laboratories — APPELLANT

Vs

The State of U.P. and Others — RESPONDENT

Date of Decision : 02-08-1971

Acts Referred:
Uttar Pradesh Sales Tax Act, 1948 — Section 4(1)(a)

Citation : (1972) 29 STC 148

Hon'ble Judges : S.N. Dwivedi, J;R.L. Gulati, J

Bench : Division Bench

Advocate : B.D. Mandhyan, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

R.L. Gulati, J.—The short question raised in this petition is whether distilled water is a medicine or a pharmaceutical preparation so as to attract tax under the U. P. Sales Tax Act.

2. The petitioner, among other things, prepares and sells distilled water. The sale of water is exempt u/s 4(1)(a) of the Act. In respect of the assessment year 1967-68 the turnover of distilled water was exempted from tax by the Sales Tax Officer. He, however, later on took proceedings u/s 21 of the Act and levied tax on the turnover of distilled water for the assessment year 1967-68 at the rate of 2 per cent, by an assessment order dated 10th September, 1970. He did so because the revising authority had in another case held that distilled water should be taxed as a medicine.

3. As stated earlier, the sale of water is exempt from tax. Under Notification No. 3504/X dated 10th May, 1956, tax is levied on the sale of medicines and pharmaceutical preparations at the point of sale by the manufacturer or the importer. It is under this notification that the tax has been levied on the assessee.

4. In our opinion, distilled water is nothing but a purified form of water. The

process of distillation does not change its nature, nor does it involve any process of manufacture. Distillation is a process by which impurities from water are removed so that it can safely be used for diluting medicines while preparing mixtures and for certain injections. By itself the distilled water has no pharmaceutical or medicinal properties. Its use in medicines and pharmaceutical preparations does not make it a medicinal or pharmaceutical preparation. In fact distilled water is used in many other ways, such as in motor car batteries.

5. We are clearly of opinion that distilled water is neither a medicine nor a pharmaceutical preparation, nor, indeed, is it prepared through any manufacturing process. The notification in question has no application whatsoever.

6. This petition is accordingly allowed. The supplementary assessment order passed u/s 21 of the U.P. Sales Tax Act for the year 1967-68 is quashed, so far as it seeks to impose tax on the turnover of distilled water. The petitioner is entitled to costs.