(1986) 07 AHC CK 0021

In the Allahabad High Court

Case No : Sales Tax Revision No. 365 of 1986

Indra Prakash Sita Ram — APPELLANT

Vs

Commissioner, Sales Tax — RESPONDENT

Date of Decision : 22-07-1986

Acts Referred:

Uttar Pradesh Sales Tax Act, 1948 — Section 11(1)
Uttar Pradesh Sales Tax Act, 1948 — Section 11(1)
Uttar Pradesh Sales Tax Act, 1948 — Section 11(1)

Citation : (1987) 67 STC 332

Hon'ble Judges : Anshuman Singh, J

Bench : Single Bench

Advocate : Bharatji Agarwal, for the Appellant; P.K. Jain, for the Respondent

Final Decision : Allowed

Judgement

Anshuman Singh, J.—Assessee feeling aggrieved against the judgment dated 22nd March, 1986, passed by the Sales Tax Tribunal, Meerut, has come to this Court in the instant revision u/s 11(1) of the U. P. Sales Tax Act (hereinafter referred to as the Act).

2. It appears that two cross appeals were filed one by the assessee and the other by the Revenue against the judgment passed by the Assistant Commissioner (Judicial), Bareilly, regarding the assessment year 1982-83. From the facts stated in the order of the Tribunal it appears that 13th January, 1986, was the date fixed in the appeal on the request of the assessee and on that date the assessee did not appear and the appeal was heard ex parte. It is pertinent to mention here that though the appeal is alleged to have been heard on 13th January, 1986, yet no judgment was delivered till 22nd March, 1986. Sri Bharatji Agarwal, learned counsel for the assessee, urged that the assessee did not receive any intimation about the date of hearing fixed in the appeal and as such none could appear on behalf of the assessee. Moreover, he has further urged that in any case, since the Tribunal postponed the delivery of judgment for about two

months it was incumbent on the part of the Tribunal to have afforded an opportunity of hearing to the assessee. Sri Jain, learned counsel appearing on behalf of the Revenue, on the contrary has urged that there was no duty cast on the Tribunal to inform about the hearing of the appeal as the date was fixed at the request of the assessee. It is true, in view of the facts of the instant case, that no duty was cast upon the Tribunal to intimate about the hearing of the appeal but in the instant case the Tribunal has not recorded any finding that the assessee had any knowledge of hearing of the appeal. In the absence of the said finding I am of the opinion that the principle of natural justice does require that the assessee must have intimation of hearing of the appeal before any liability, specially the tax, is fastened. Since the assessee has not been afforded an opportunity of hearing the order passed by the Tribunal cannot be sustained.

3. In the result the revision succeeds and is allowed. The order passed by the Tribunal is quashed and it is directed to decide the appeal afresh after hearing the assessee and the Revenue. However, there will be no order as to costs.

4. Let a copy of this order be sent to the Tribunal concerned as contemplated u/s 11(8) of the Act.

