(1986) 07 AHC CK 0020

In the Allahabad High Court

Case No : Sales Tax Revision No. 185 of 1986

Jagan Lal Shiv Charan Das APPELLANT

Vs

Commissioner, Sales Tax RESPONDENT

Date of Decision : 21-07-1986

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 408

Hon'ble Judges : Anshuman Singh, J

Bench : Single Bench

Advocate : Bharatji Agarwal, for the Appellant;

Final Decision : Allowed

Judgement

Anshuman Singh, J.—The assessee-applicant feeling aggrieved against the judgment dated 24th February, 1986, passed by the Sales Tax Tribunal, Lucknow, 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. The assessee carries on the business of foodgrains on commission agency basis. Book version of the assessee was accepted by the assessing authority, but certain exemption claimed on behalf of the ex-U. P. principals was disallowed. First appeal filed by the assessee before the Assistant Commissioner (Judicial) failed. The assessee feeling aggrieved preferred second appeal before the Tribunal and the Tribunal by the impugned order allowed the appeal and remanded the case back to the assessing authority for reassessment.

3. I have heard learned counsel for the parties. Sri Bharatji Agarwal, learned counsel appearing for the assessee-applicant, urged that in view of the findings recorded by the Tribunal that "we also agree that if the assessee had not informed the registered dealers from whom he had made purchases that the goods purchased were meant for ex-U. P. principals, this fact also could not be

treated against the assessee...". From the facts and circumstances discussed above, it is apparent that the assessee made purchases on behalf of ex-U. P. principals and therefore, rightly claimed the exemption. It was not justified in remanding the matter back to the assessing authority to scrutinise the date of despatches which was not even disputed by the assessing authority. Once the Tribunal itself recorded a positive finding that the purchases made by the assessee were on behalf of the ex-U. P. principal, there was no room left for disallowing the claim of the assessee. In view of the said fact, the order passed by the Tribunal cannot be sustained.

4. In the result, the revision succeeds and is allowed. The order passed by the Tribunal is set aside and the Tribunal is directed to decide the appeal of the assessee afresh treating the purchases made by the assessee for its ex-U. P. principals. However, there will be no order as to costs.

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