**(1987) 11 MP CK 0016**

**In the Madhya Pradesh High Court**

**Case No :** Miscellaneous Petition No. 1565 of 1982

Kaluram Gupta APPELLANT

Vs

Additional Sales Tax Officer and Another RESPONDENT

**Date of Decision :** 12-11-1987

**Acts Referred:**
Madhya Pradesh General Sales Tax Act, 1958 — Section 19(1)

**Citation :** (1988) 69 STC 163

**Hon'ble Judges :** N.D. Oza, C.J;K.K. Adhikari, J

**Bench :** Division Bench

**Advocate :** B.L. Nema, for the Appellant; S.K. Dixit, Deputy Advocate-General, for the Respondent

**Final Decision :** Dismissed

## Judgement

N.D. Ojha, C.J.—By this writ petition, two orders passed in reassessment proceedings u/s 19(1) of the M. P. General Sales Tax Act, 1958 (hereinafter referred to as "the Act") and the orders passed in revision, only modifying and not setting aside in toto the orders of assessment passed by the Sales Tax Officer, have been challenged. The assessment orders were passed ''with regard to two periods being 27th November, 1976 to 11th November, 1977 and 12th November, 1977 to 31st October, 1978.

2. The petitioner carries on business of manufacture and sale of bricks. Reassessment proceedings were started consequent upon a raid being made on 27th June, 1979 in the premises of one M/s. Ghanshyamdas Basantlal and certain books of accounts and loose papers being seized which indicated that the petitioner had suppressed his turnover. An affidavit had also been filed on behalf of M/s. Ghanshyamdas Basantlal stating that they had no concern with the business of manufacture and sale of bricks and the business which they were carrying on, was of utensils and rice, etc.

3. Notice was issued to the petitioner and the case set up by him in response to

 

the notice was that he had no concern with the purchase and sale of bricks which was found entered in the account books or the loose papers seized from the premises of M/s. Ghanshyamdas Basantlal. It was also stated on his behalf that some money had been obtained from M/s. Ghanshyamdas Basantlal which was a firm of the uncle of the petitioner and that considerable number of bricks were handed over to Ghanshyamdas Basantlal for sale.

4. The case set up by the petitioner did not find favour with the Sales Tax Officer, nor in revision with the Divisional Deputy Commissioner.

5. Having heard learned counsel for the petitioner, we are of the opinion that the impugned orders do not suffer either from any manifest error of law or error of jurisdiction so as to justify the quashing of those orders in a writ of certiorari. The findings recorded in the impugned orders are essentially findings of fact based on appraisal of evidence and they do not suffer from any such error which may justify interference in a writ petition.

6. It was urged by the learned counsel for the petitioner that no proper opportunity was given to the petitioner to substantiate his case. We, however, find it difficult to agree with this submission in view of the facts stated in this behalf in the return. On a perusal of the return, it is apparent that sufficient opportunity was given to the petitioner and it was the petitioner himself who did not avail of the opportunity.

7. It was then urged by the learned counsel for the petitioner that the petitioner was not made aware of the contents of the affidavit filed on behalf of M/s. Ghanshyamdas Basantlal. We find it difficult to agree with this submission either. On a perusal of the impugned order passed in revision, a copy whereof has been attached as annexure P-1 to the writ petition, it appears that it was specifically urged on behalf of the petitioner that the affidavit referred to above was false. Unless the petitioner was made aware of the contents of the affidavit, he could not have taken this stand that the said affidavit was false. It is, therefore, apparent that the petitioner was made aware of the contents of the aforesaid affidavit.

8. Lastly it was urged by the learned counsel for the petitioner that no detailed questions were put to the petitioner with regard to the account books and loose papers which were seized from the premises of M/s. Ghanshyamdas Basantlal and consequently, the petitioner was prejudiced. In our opinion, there is no substance even in this submission. Indeed it stands admitted by the petitioner that he was specifically asked about the said account books and loose papers and he denied any connection with them. After this reply made by the petitioner that he had no connection with the said account books or loose papers, there was hardly any occasion for putting any further question to the petitioner with regard to those account books and loose papers.

9. In the result, we find no merit in this writ petition which is accordingly dismissed. No order as to costs. The outstanding security amount be refunded to

the petitioner.

 