(1987) 03 AHC CK 0090

In the Allahabad High Court

Case No : Sales Tax Revision No. 650 of 1986

Kashi Ram Munish Kumar APPELLANT

Vs

Commissioner of Sales Tax RESPONDENT

Date of Decision : 12-03-1987

Acts Referred:

Citation : (1987) 67 STC 358

Hon'ble Judges : Om Prakash, J

Bench : Single Bench

Advocate : Bharatji Agarwal, for the Appellant; The Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

Om Prakash, J.—This is a revision for the assessment year 1980-81 by the assessee against the Tribunal''s order dated 21st February, 1986.

2. The dispute relates to the purchases which the assessee claimed to have made for ex-U. P. principals as an agent. The assessing officer recorded the findings that the purchases made by the assessee were debited in the name of ex-U. P. principals right on the date when the purchases were made, that the goods so purchased were dispatched to the ex-U. P. principals either on the same day or in some cases even beyond a week and that the assessee has not shown any written orders on behalf of the ex-U. P. principals. The Tribunal remanded the case only for these three reasons on which the assessing officer has already recorded findings. The assessing officer having already recorded his findings, I do not see that the Tribunal was justified in directing that "the matter of purchasing agency will be re-examined by the assessing authority."

3. The remand order can be justified only if something is very necessary for deciding the case but that has not been done and some further investigation is necessary in that behalf. In the instant case, the entire evidence is available on record and the points formulated by the Tribunal to remand the case have not

only been examined by the assessing officer but he has recorded clear findings thereon. On the facts and in the circumstances of this case there is no justification for remand, but the Tribunal ought to have given its own judgment on the basis of the entire material available on the record.

4. The revision is, therefore, allowed and the Tribunal''s order dated 21st February, 1986 is set aside. Let a copy of this order be sent to the Tribunal to pass an order u/s 11(8) of the Act, 1948 to dispose of the case itself without remanding it to the assessing authority.

