(2004) 07 UK CK 0022

In the Uttarakhand High Court

Case No : Writ Petition No. 1124 of 2001 (M/B)

Kumaon Stone Crusher APPELLANT

Vs

State of U.P. and Others RESPONDENT

Date of Decision : 01-07-2004

Acts Referred:

Citation : (2004) 07 UK CK 0022

Hon'ble Judges : P.C.Verma, Acting C.J.;Prafulla C. Pant, J

Bench : Division Bench

Advocate : S.N. Babulkar, for the Appellant; K.P. Upadhyaya, Learned Brief Holder, for the Respondent

Final Decision : Allowed

Judgement

This writ petition has been filed by the Petitioner seeking a writ or direction to quash the orders dated 14-6-1999 and 21-6-1999 passed by Respondents No. 2 and 3 respectively and also for directing the Respondents not to make recovery and levy the transit fee upon the furnished item of the stone i.e. stone grits, chips and sand from the Petitioner.

1. Heard Mr. S.N. Babulkar, learned Counsel for the Petitioner and Mr. K.P. Upadhyaya, learned Brief Holder for the State.

2. Petitioner is a stone crusher. It collects the boulders from the bank of Sharda River. Since the boulders are collected from the reserved forest area, therefore, the boulders have been treated to be forest produce and the Petitioner has been charged transit fee and that has been paid by the Petitioner to the Respondents. After taking the boulders to the crushing centre, the boulders are converted into commercial commodity, namely, stone grits and chips after involving the manufacturing process in the crusher. Since, the stone grits and chips are manufactured by the Petitioner, who sells it to the consumers, it becomes a commercial commodity and it ceases to be forest produce. Therefore, no transit fee can be charged and recovered on the sale and transfer of these items as

forest produce. Even otherwise, if for the sake of argument of the learned Standing Counsel, it is accepted that the stone remains to be stone, therefore, it remains to be forest produce and the transit fee is leviable under Rules of 1978, since the Petitioner has already paid the transit fee on the boulders, therefore, under the Rules, Respondents are not entitled to recover the transit fee twice.

3. In these circumstances, the impugned orders dated 14-6-1999 and 21-6-1999 passed by Respondents No. 2 and 3 respectively cannot be sustained and are liable to be quashed.

4. Therefore, the orders dated 14-6-1999 and 21-6-1999 passed by Respondents No. 2 and 3 respectively contained in Annexures 3 & 4 are, hereby, quashed to the extent as above. The writ petition is allowed accordingly. No order as to costs..

