(1986) 11 AHC CK 0015

In the Allahabad High Court

Case No : Sales Tax Revision No. 406 of 1986

Kunj Bihari Lal Suraj Mal APPELLANT

Vs

Commissioner, Sales Tax RESPONDENT

Date of Decision : 10-11-1986

Acts Referred:

Citation : (1987) 66 STC 269

Hon'ble Judges : R.R. Misra, J

Bench : Single Bench

Final Decision : Allowed

Judgement

R.R. Misra, J.—This revision is directed against an order dated 28th December, 1985 passed by the Sales Tax Tribunal, Allahabad Bench, Allahabad.

2. During the assessment year 1981-82, the dealer dealt in the purchase and sale of bullion and silver ornaments. In its appellate order the Tribunal has relied upon two grounds for the rejection of the account books. The first is that for the purchase of old ornaments, the assessee did not have any purchase vouchers issued by the sellers. On the other hand, it is the admitted fact, so far as this case is concerned, that with regard to the purchase of those old ornaments the assessee had himself maintained proper vouchers mentioning all particulars as to the date and name of the seller and weight and amount, etc. The view taken by the sales tax authorities was that since the purchase vouchers have been prepared by the assessee himself, therefore the book version cannot be accepted. The second ground taken by the Tribunal for the rejection of the account books is that the turnover disclosed is inadequate in relation to the stock.

3. I have heard learned counsel for the parties. It is admitted that in the three preceding years the assessee had been declared non-assessable by the first appellate authority and those orders have become final. In the present case also after the impugned appellate order of the Tribunal, the tax in dispute is in the sum of Rs. 240 only. So far as the first contention is concerned, learned counsel

for the applicant has invited my attention to a decision of this Court in the case of Suraj Ornament House v. Commissioner, Sales Tax (Sales Tax Revision No. 1055 of 1978, decided on 30th August, 1979). In that case the view taken was that if the assessee had purchased old ornaments from villagers who were themselves not dealers and the assessee has maintained details with regard to such purchases, since the assessee has done all that was possible and in the absence of any finding that the sale and purchase were not verifiable, the rejection on this ground could not be maintained. Under the special facts of this case and in view of the aforesaid decision of this Court, I am also inclined to take the view that the first ground is not available to the department to reject the account books.

4. As regards the second ground that the sales disclosed are inadequate in relation to the stock, it is by now settled law that on this basis there could be no rejection of account books. Under the circumstances, the authorities below were not justified in rejecting the book version of the turnover shown by the dealer.

5. In the result, the revision succeeds and is allowed with costs and the dealer is declared exempt from tax for the assessment year 1981-82.