(2011) 12 AHC CK 0284

In the Allahabad High Court

Case No : Writ Tax No. 1794 of 2011

M/S Aditya Birla Chemicals (India) Limited — APPELLANT

Vs

State of U.P. and Others — RESPONDENT

Date of Decision : 22-12-2011

Acts Referred:

Citation : (2011) 12 AHC CK 0284

Hon'ble Judges : R.K. Agrawal, J;B. Amit Sthalekar, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. By means of the present petition, the petitioner has challenged the insistence of the respondents for payment of registration fees for the import of chemicals in the State of U.P. The petitioner is engaged in the business of manufacturing and sale of chemicals. It is a registered dealer under the provisions of U.P. VAT Act as well as under the provisions of Central Sales Tax Act. It purchases Calcium Hydroxide, Calcium Oxide, Hydrated lime, etc. from the traders/manufacturers of the State of Rajasthan. The forest authorities of State of U.P. are insisting upon taking registration and charging registration fees for each Truck of coal, which is being supplied.

2. The contention is that the petitioner is not liable to pay any registration fees nor liable to take any registration in respect of each Truck. Reliance has been placed upon a recent decision of this Court in M/s Akanksha Enterprises Vs. State of Uttar Pradesh and others Writ Tax No. 1699 of 2011 decided on 8.12.2011 wherein this Court had allowed the writ petition and had held that the petitioners will not be required to obtain registration for movement of coal within the State of U.P. The operative portion of the judgment is reproduced below:

On the aforesaid facts and circumstances the insistence for registration and for charging the registration fees is beyond the authority conferred upon the respondents under the Indian Forest Act, 1927 and the Rules of 1978.

3. Both the writ petitions are allowed to the extent that the petitioners will not be required to obtain registration for movement of coal within the State of U.P. If any registration fee is charged from the petitioners, the same will be returned to them. They will, however, continue to obtain transit passes and pay transit fee on the transportation/movement of coal, held to be forest produce in NTPC Ltd. (supra) in accordance with the U.P. Transit of Timber and other Forest Produce rules, 1978.

4. Shri S.P. Kesarwani, learned Addl. Chief Standing Counsel could not point out any distinguishing feature so as not to apply the aforesaid judgment in the present case.

5. Respectfully following the aforesaid decision, we allow the writ petition in the same terms and directions as mentioned in the judgment and order dated 8.12.2011 passed by this Court in the case of M/s Akanksha Enterprises (supra).