(2017) 03 AHC CK 0119

In the Allahabad High Court

Case No : Sale/Trade Tax Revision No. 36 of 2015

M/s. Anjani Steels Ltd. APPELLANT

Vs

The Commissioner, Commercial Tax RESPONDENT

Date of Decision : 03-03-2017

Acts Referred:

Uttar Pradesh Value Added Tax Act, 2008 — Section 13

Citation : (2017) 95 UPTC 390

Hon'ble Judges : Ashwani Kumar Mishra, J.

Bench : Single Bench

Advocate : Aloke Kumar, Advocate, for the Applicant; C.S.C, for the Opposite Party

Final Decision : Allowed

Judgement

Ashwani Kumar Mishra, J.—Revisionist is a registered dealer, who is engaged in the manufacturing of MS Bar, MS Channel, MS Angle, MS flat, MS square and TMT Bar etc. and had purchased various raw materials, after paying tax vide tax invoice. Such raw material was utilised for manufacturing of the end commodity and thereafter such commodity was sold by the dealer vide sale invoice. It is not in dispute that tax collected at the time of sale has been duly deposited. The dealer claimed input tax credit for the amount of tax paid and the books of account were maintained accordingly. The authorities, however, have invoked the provisions contained under Section 14 of the U.P. Value Added Tax Act for reversal of input tax credit, particularly with reference to Rule 21(12) of the U.P. Value Added Tax Rules to deny benefit of input tax credit on the ground that since the sale of manufactured produce was not made vide tax invoice, as such the benefit of input tax would be inadmissible.

2. In order to appreciate the controversy, it would be relevant to take note of Section 2 (P) of the Act, which defines ''input tax'', in following words :-

"(p) "input tax" in relation to a registered dealer who has purchased any goods from within the State, means the aggregate of the amounts of tax, -

(i) paid or payable by such registered dealer to the registered selling dealer of such goods in respect of purchase of such goods; and

(ii) paid directly to the State Government by the purchasing dealer himself in respect of purchase of such goods where such purchasing dealer is liable to pay tax under this Act on the turnover of purchase of such goods

Provided that tax paid or payable in respect of transfer of right to use any goods shall not form part of the input tax".

3. Section 13 of the Act clearly provides vide item no.2 in the table forming its part that after purchase of the goods that are used in manufacturing of any taxable goods, except non-VAT goods and such manufactured goods are sold either inside the State or in the course of inter-State trade or commerce full amount of the input tax is admissible. In the facts of the present case, it is not in dispute that the purchased goods i.e. raw material was used in the manufacturing of taxable goods, and such manufactured goods are sold within the State and, therefore, the full amount of input tax under the statutory scheme was admissible to the revisionist.

4. The reversal is ordered by the authorities, placing reliance upon sub Rule-12 of Rule-21 of the Rules framed under the Act, which reads as Under :-

"No credit of amount of input tax shall be allowed in respect of purchases of VAT goods which has been sold to registered dealer by a registered dealer and such selling registered dealer has not issued tax invoice".

5. Rule clearly provides that no credit towards amount of input tax shall be allowed in respect of purchases of VAT goods, which has been sold to registered dealer by a registered dealer, where such registered dealer has not issued tax invoice. The dealer, herein, is not the purchaser, but is the seller, who has sold the manufactured goods vide sale invoice. It is the purchaser who has purchased the goods vide sale invoice, who would be denied input tax credit under the rules, but such provision shall have no application so far as the present dealer is concerned, who is the seller. Rule-21(12) of the Rules accordingly had no applicability in the fact situation of the present case and the view taken by the Tribunal, to the contrary is based on misconstruction of the rule. The question of law is answered accordingly. The Revision stands allowed.