(2013) 10 AHC CK 0237

In the Allahabad High Court

Case No : Sale/Trade Tax Revision No. 777 of 2013

M/s. Om Enterprises APPELLANT

Vs

The Commissioner, Commercial Tax RESPONDENT

Date of Decision : 23-10-2013

Acts Referred:

Uttar Pradesh Value Added Tax Act, 2008 — Section 48

Citation : (2017) 95 UPTC 392

Hon'ble Judges : Pankaj Mithal, J.

Bench : Single Bench

Advocate : Bharat Ji Agrawal, Sr. Advocate assisted by Rahul Agarwal, Advocate, for the Applicant in Sale/Trade Tax Revision No. 777 of 2013.; C.S.C. and U.K. Pandey, S.C, for the Opposite Party in Sale/Trade Tax Revision No. 777 of 2013.; S.C, for the Applicant in Sale/Trade Tax Revision No. 764 of 2013.

Final Decision : Disposed Off

Judgement

Pankaj Mithal, J.—The two revisions arise from the same order of the tribunal dated 27.9.1993 and as such are taken up together.

2. Heard Sri Bharat Ji Agarwal assisted by Sri Rahul Agarwal, learned counsel for the revisionists and Sri U.K. Pandey, learned Standing Counsel appearing for the revenue.

3. Counsel for the parties agree for the final disposal of the revisions at the admission stage itself on the basis of the facts as stated in the impugned order of the tribunal dated 27.9.2013.

4. The revisionists herein are the purchasers of the goods which were being transported from Delhi to West Bengal. During their passage from State of U.P. they were intercepted by the mobile squad of the Commercial Tax Department on 16.8.2013 and the seizure order was passed on 4th September, 2013. The representation of the revisionists under Section 48(7) of the U.P. VAT Act, 2008 and the appeal to the tribunal failed but the security demanded for the release of

the goods was reduced to twice amount of the tax leviable.

5. The revisionists have preferred this revision contending that the seizure itself is illegal and bad in law. Therefore, the demand of security is unjustified.

6. It is admitted that the goods were seized solely on the ground that the revenue was of the opinion that the consignor and consignee both were non-existing and not genuine.

7. In a series of decisions it has been held that the existence of the consignor or the consignee or their registration with the trade tax authorities is not relevant for the purposes of seizing the goods in transit. The object of providing the transit declaration form is to ensure that the goods which enters the State of U.P. passes out and are not sold inside the State so that there is no evasion of any trade tax of the State.

8. Once the transit declaration form and all other documents accompanying the same are found to be in order merely for the reason or on the presumption that the consignor or consignee are non-existing, the seizure is not justified.

9. In view of the aforesaid facts and circumstances, the impugned order of the tribunal dated 27th September, 2013 and the seizure order dated 4th September, 2013 are set aside with the direction to release seized goods forthwith without insisting or demanding any security.

10. In view of above, the Sales/Trade Tax Revision No.777 of 2013 is allowed and the Sales/Trade Tax Revision No.764 of 2013 filed by the revenue is dismissed.