**(1979) 04 AHC CK 0049**

**In the Allahabad High Court**

**Case No :** S.T.R. No. 767 of 1975

Nand Kishore Modi APPELLANT

Vs

Commissioner, Sales Tax RESPONDENT

**Date of Decision :** 04-04-1979

**Acts Referred:**

**Citation :** (1980) 45 STC 343

**Hon'ble Judges :** C.S.P. Singh, J

**Bench :** Single Bench

**Advocate :** R.V. Gupta, for the Appellant; Standing Counsel, for the Respondent

**Final Decision :** Dismissed

# Judgement

C.S.P. Singh, J.—The revising authority has referred the following question for the opinion of this Court:

Whether, on the facts and circumstances of the case, the arhat charges amounting to Rs. 26,197.34 paid by the dealer besides the price of the food-grains were taxable as a part of the turnover of purchases?

2. The assessee was a dealer in foodgrains. His disclosed turnover of purchases of oil-seeds and foodgrains was not believed by the Sales Tax Officer, and an estimate made. In the estimate, the arhat charges, which the assessee had paid, amounting to Rs. 26,197.34, and which the assessee contended could not be included in his turnover, was not accepted. On appeal the accounts were accepted, but the contention regarding the exclusion of arhat charges was rejected. The revising authority has likewise not accepted the assessee''s contention regarding arhat charges. The dispute regarding arhat charges was raised in the following context:

3. The assessee used to pay one and a half per cent commission to kachcha arhatias through whom the purchases used to be made. In the returns filed by the assessee, this amount was sought to be excluded as the assessee''s

contention was that the arhat charges paid to kachcha arhatia was by way of commission for services rendered for finalising the purchases and, as such, was not a part of the purchase price. The dispute has to be resolved by reference to Section 2(ii) and 2(gg) of the U.P. Sales Tax Act.

4. Section 2(ii) runs as under:

Turnover of purchases'' with its cognate expressions means the aggregate of the amounts of purchase price paid or payable by a dealer in respect of purchases of goods made by or through him after deducting the amount, if any, refunded to the dealer by the seller in respect of any goods returned to such seller within such period as may be prescribed.

5. Section 2(gg), so far as is relevant, defines "purchase price" as the amount of valuable consideration paid or payable by a person for the purchase of any goods, less any sum allowed by the seller as cash discount according to trade practice.

6. From the word "purchase price", as defined in the Act, it is apparent that it means the consideration paid by the purchaser for the purchase of any goods. The turnover of purchases is the aggregate of the purchase price paid by the dealer. In the present case, there is no finding that the assessee paid the purchase price to the principals directly. On the contrary, the findings suggest that the transactions were finalised by the kachcha arhatia who not only collected the actual price of the commodity but along with it his commission at the rate of one and a half per cent. This being so, as the deal was finalised through the kachcha arhatia, and the payment made by the purchaser to the kachcha arhatia, the purchase price paid by the assessee for foodgrains and oilseeds was the actual price of the foodgrains, coupled with the commission paid for the purchase. In the circumstances, the commission paid to the kachcha arhatia had to be included in the turnover of purchases.

7. The reference, which is being treated as a revision in view of the amendment in the law, fails and is dismissed. There shall be no order as to costs.

 