Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 14/09/2026

(2010) 01 AHC CK 0023

In the Allahabad High Court

Om Dal Mill — APPELLANT

Vs

Commissioner of Trade Tax — RESPONDENT

Date of Decision : 05-01-2010

Acts Referred:
Uttar Pradesh Sales Tax Act, 1948 — Section 11, 8A

Citation : (2010) 29 VST 528

Hon'ble Judges : Bharati Sapru, J

Bench : Single Bench

Judgement

Bharati Sapru, J.—Heard learned Counsel for the revisionist and the learned standing counsel for the Department.

2. This revision u/s 11 of the U. P. Trade Tax Act, 1948 has been filed by the assessee, Om Dal Mill, Meerut, being aggrieved by the order dated July 25, 2001, by which the Tribunal has imposed interest on the transactions of the assessee on account of a notification dated September 30, 1993 by which the rate of tax was increased on besan. Notification dated September 30, 1993 has been given retrospective effect from April 1, 1993.

3. Brief facts of the case are that the assessee had been carrying on business of manufacturing and sale of besan. The business of the assessee was registered under the provisions of Section 8A of the U. P. Trade Tax Act but on account of the financial stringency, the business of the assessee discontinued from July, 1993.

4. It is the case of the assessee that the assessee filed its final return in the month of July, 1993, which was accepted. After the issuance of the notification dated September 30, 1993, the Department issued a notice against the assessee u/s 22 of the Act and sought to impose rate of tax, which had been brought in assessment by the said notification with retrospective effect from April 1, 1993.

5. Two questions of law have been sought to be answered by the assessee, which are hereinunder:

1. Whether, on the facts and in the circumstances of the case, the order u/s 22 of the U. P. Trade Tax Act could be passed enhancing the rate of tax from 1.5 per cent to four per cent under the notification dated September 30, 1993 ?

2. Whether on the facts and in the circumstances of the case, the applicant-assessee was liable to pay interest also u/s 8(1) of the Act on the enhanced amount of tax ?

6. The first question has been refused by this Court at the stage of admission itself.

7. I have heard learned Counsel for the revisionist assessee as well as department for the State at length on the second question.

8. The learned Counsel for the assessee has relied on a decision in the case of Annapurna Biscuit Manufacturing Co. and Others Vs. The State of Uttar Pradesh and Another, and have specifically relied the contents of para 14 of the said judgment wherein this Court has held that since there was no law imposing tax on purchases in the circumstances mentioned in the section. The determination of tax applicable on the date of filing of the return on the law laid down was neither against the law nor mala fide.

9. In the present case also on the date when the returns were filed by the assessee, the notification dated September 30, 1993 had not come. The assessee had filed its return and it paid taxes in accordance with the rates of tax which was applicable at that time. The imposition of tax at the rate, which came subsequently, therefore, in my opinion, was applied to the assessee for reasons that in the present case, the business is closed, the tax had been finally paid and it could not be said that there was any mistake made by the assessee in the matters to be reopened at the later date u/s 22 of the Act. The assessee is not liable to pay any interest.

10. The second question is thus answered in favour of the assessee and against the Department.

11 The revision is disposed of as above. No costs.