(1978) 01 AHC CK 0018

In the Allahabad High Court

Case No : C.M.W. No. 107 of 1977

PRAKASH CHAND — APPELLANT

Vs

SALES TAX OFFICER and Others — RESPONDENT

Date of Decision : 25-01-1978

Acts Referred:

Citation : (1978) 7 CTR 226

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

Bench : Division Bench

Judgement

C. S. P. Singh, J. - The petitioner has challenged proceedings for recovery of sales tax against him on the ground that the dues relate to the firm Messrs. Sheetal Prasad Bir Sen, and as he has no concern with that firm, the amounts could not be recovered from him. From the Counter Affidavit filed, it appears that the dues relate to the year 1972-73 and relate to the firm Messrs Sheetal Prasad Birsen. In that year, the firm obtained registration and in Form No. 14 that was filed for the purposes of registration, Birsen was shown as the sole proprietor. It does not appear that the registration was even cancelled by the Sales Tax Officer on the ground that the firm was not a genuine firm. It is also clear that the assessment order was made against this registered firm and there is nothing on the record to indicate at present that in the assessment proceedings, it was found that the petitioner was a partner of the firm. The demand notice also does not appear to have been served upon the petitioner as partner of the firm. In these circumstances, it cannot be said that the petitioner was a defaulter in payment of tax assessed on the firm Messrs. Sheetal Prasad Birsen, and this being so, the amounts in question could not be recovered from the petitioner.

2. The writ petition is therefore allowed. The present recovery proceedings initiated against the petitioner are quashed. There will be no order as to costs.