(1985) 02 AHC CK 0013

In the Allahabad High Court

Case No : S.T.R. No. 308 of 1984

Qureshi Crucible Centre — APPELLANT

Vs

Commissioner of Sales Tax — RESPONDENT

Date of Decision : 21-02-1985

Acts Referred:

Citation : (1986) 61 STC 327

Hon'ble Judges : Anshuman Singh, J

Bench : Single Bench

Advocate : R.P. Saxena, for the Appellant; The Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

Anshuman Singh, J.—The assessee has preferred this revision against the order dated 31st May, 1985, passed by the Sales Tax Tribunal, Moradabad, relating to the assessment year 1975-76.

2. The assessee deals in crucibles. The account books of the assessee were rejected and best judgment assessment was passed. It is pertinent to mention that the assessee had deposited the admitted tax at 3.5 per cent whereas the tax was imposed by the assessing authority at the rate of 7 per cent, as such the demand for payment of interest was also made from the assessee. The assessee feeling aggrieved filed a first appeal before the Assistant Commissioner (Judicial) who accepted the books of account but maintained the demand of interest. The second appeal filed by the applicant was dismissed by the Tribunal and the Tribunal also held that the assessee was liable to pay interest.

3. The learned counsel for the assessee has contended that the Sales Tax Officer, Moradabad, while making the assessment of the assessee for the years 1971-72 and 1972-73 determined tax on crucible at the rate of 3.5 per cent. He further contends that since the rate of tax imposed by the Sales Tax Officer in the previous years was at 3.6 per cent and the assessee deposited the admitted tax

at the rate of 3.5 per cent and if "the rate of tax was subsequently enhanced the assessee was not liable to pay interest.

4. After hearing learned counsel for the parties I am of the opinion that there have been no finding by the. Tribunal that the assessee acted mala fide in not depositing the tax at the rate of 7 per cent. The demand of interest was not justified. Since the Sales Tax Officer himself has been making assessment and determining the tax at the rate of 3.5 per cent it cannot be said that the assessee did not deposit the admitted tax which was subsequently fixed at the rate of 7 per cent. The circumstances of the case are such which do not warrant the levy of interest on the assessee.

5. In the result, the revision succeeds and is allowed and the order passed by the Tribunal is set aside. However, there will be no orders as to costs.

