(1983) 01 AHC CK 0026

In the Allahabad High Court

Case No : Sales Tax Revision No. 144 of 1980

Raj Kumar Sharawan Kumar Oil and Rice Mills — APPELLANT

Vs

Commissioner, Sales Tax — RESPONDENT

Date of Decision : 04-01-1983

Acts Referred:

Citation : (1983) 53 STC 161

Hon'ble Judges : B.N. Sapru, J

Bench : Single Bench

Advocate : M.C. Gupta and S.K. Agarwal, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

B.N. Sapru, J.—The only question in this revision filed by the assessee is as to what extent the assessee is entitled to the benefit of concessional rate u/s 4-B of the Act on his purchases of oil-seeds.

2. The assessee''s contention was that he should be given the benefit of reduced tax of rate at 13.83 percent of the total purchases of oil-seeds, at Rs. 1,14,14,712.83. The assessee has been given the benefit of concessional rate of tax only at 13.8 per cent of the net purchases worth Rs. 51,30,789.26 and on the remaining turnover he was taxed at the rate of 3 per cent.

3. The assessee admittedly holds a recognition certificate u/s 4-B(2) of the Act. He is consequently entitled to the benefit of Section 4-B(1)(a) of the Act. He would, therefore, be entitled to the benefit of Section 4-B(1)(a) of the Act on the net total purchases of oil-seeds made by the assessee which are covered by the recognition certificate granted u/s 4-B(1)(a) of the Act.

4. Learned standing counsel urges that the assessee has committed a breach of the recognition certificate by effecting sales contrary to the requirements of law. If that be so, it would be open to the department to take action under the relevant provisions of law. That, however, does not mean that the assessee is not

entitled to the benefit of Section 4-B(1)(a) of the Act.

5. In the result, the revision is allowed. The order of the Tribunal is partly set aside and it is declared that the assessee is entitled to the concessional rate of tax on his total purchase of oil-seeds in the proportion of 13.83 per cent. The papers will now go back in accordance with the provisions of Section 11(8) of the Act to pass appropriate orders. The assessee is entitled to his costs which I assess at Rs. 200.

