(1985) 01 AHC CK 0001

In the Allahabad High Court

Case No : Sales Tax Revision No. 228 of 1984

Rajesh Brick Field APPELLANT

Vs

Commissioner of Sales Tax RESPONDENT

Date of Decision : 02-01-1985

Acts Referred:
Uttar Pradesh Sales Tax Act, 1948 — Section 11(1)

Citation : (1986) 61 STC 274

Hon'ble Judges : Anshuman Singh, J

Bench : Single Bench

Advocate : Prakash Narain, for the Appellant; The Standing Counsel, for the Respondent

Judgement

Anshuman Singh, J.—This revision has been preferred by the; assessee u/s 11(1) of the U.P. Sales Tax Act against the judgment passed by the Sales Tax Tribunal, Bareilly Bench, Bareilly, dated 22nd March, 1984, relating to the assessment year 1976-77.

2. Learned counsel appearing for the assessee has contended that the Assistant Commissioner (Judicial) had allowed a reduction of 1,75,000 bricks as the same were utilised for the construction of the mill of which the assessee was a partner but the Tribunal set aside the aforesaid finding illegally. After hearing the counsel for the parties I am of the opinion that until and unless a finding is recorded to the effect that 1,75,000 bricks were sold by the assessee to the firm, Modern Kumar Rice Mill, the same could not be treated as a sale. Since the Tribunal has not recorded any finding that 1,75,000 bricks were sold by the assessee to the firm, Modern Kumar Rice Mill, it was not justified in reversing the findings recorded by the Assistant Commissioner (Judicial), who had allowed reduction in the total turnover of the assessee.

3. In the result the revision succeeds in part and is allowed to the extent stated above. The order of the Tribunal to that extent is set aside and it is directed to decide the appeal afresh in the light of the observations made above. However,

the parties shall bear their own costs.

4. Let a copy of this order be sent to the Tribunal concerned as required u/s 11(8) of the U.P. Sales Tax Act.

