
(1984) 07 AHC CK 0027
In the Allahabad High Court
Case No : Writ Petition No. 867 of 1981

Ram Bahadur Misra

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 13-07-1984

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1985) 58 STC 80

Hon'ble Judges : Om Prakash, J

Bench : Single Bench

Advocate : S. Husain, for the Appellant; The Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

Om Prakash, J.—This is a petition under Article 226 of the Constitution of India. It arises from the order of the Assistant Sugar Commissioner, Bareilly, passed under the U. P. Sugarcane (Purchase Tax) Act, 1961.

2. I have heard Sri Sajjad Husain, learned counsel for the petitioner and Sri Agarwal, learned Standing Counsel. The sole contention of Sri Husain is that the revisional authority has exercised jurisdiction absolutely contrary to law. He submits that tax under the U. P. Sugarcane (Purchase Tax) Act can be levied only on the purchase of sugarcane. In the instant case there is no material whatsoever to show that any sugarcane was purchased by the petitioner. His case, from the beginning, is that the petitioner had crushed sugarcane of his own farm and no purchase, throughout the year, was made. I have carefully gone through the record and asked the learned Standing Counsel, time and again, to show what was the proof on record to indicate that any quantity of sugarcane was ever purchased by the petitioner. His argument is that the petitioner failed to produce the purchase register and, therefore, the revisional authority was competent to make a guess. I am not impressed by this argument of Sri Agarwal. No doubt the revisional authority is competent to make a best

judgment assessment, but the assessment should not be capricious and arbitrary. In the instant case, there is no documentary or circumstantial or any other evidence to prove that the petitioner ever purchased sugarcane. So the precedent condition to exercise jurisdiction has not been established and, therefore, the order of the revisional authority is absolutely without jurisdiction, which is liable to be quashed under Article 226 of the Constitution of India.

3. This petition therefore succeeds and is allowed. Parties will bear their own.