(1987) 02 AHC CK 0031

In the Allahabad High Court

Case No : Sales Tax Revision No. 1048 of 1986

Ram Kishan Subhash Chand APPELLANT

Vs

Commissioner, Sales Tax RESPONDENT

Date of Decision : 25-02-1987

Acts Referred:

Citation : (1987) 67 STC 251

Hon'ble Judges : Om Prakash, J

Bench : Single Bench

Advocate : Rakesh Kumar, for the Appellant; The Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

Om Prakash, J.—This is a revision by the assessee for the assessment year 1974-75 against the Tribunal''s order dated 14th August, 1986.

2. The facts are that against the order of the Assistant Commissioner (Judicial), both the parties filed appeals. Whereas, the appeal of the Revenue, being Appeal No. 2129 of 1979, was dismissed by the Tribunal on 27th October, 1983, the assessee''s appeal, being Appeal No. 1113 of 1979, was dismissed on 14th August, 1986 by the impugned order. The assessee carried on the business of brick kiln. The books of account were rejected and the turnover shown by the assessee, was estimated by the assessing officer. Before the Tribunal, the assessee challenged the rejection of the books and the estimate of the turnover. The Revenue filed appeal challenging the quantum only.

3. The contention of the assessee is that the Tribunal erred in deciding the cross appeals against the decision of the Assistant Commissioner (Judicial) at different stages and that the best way was to consolidate both the appeals and dispose of them by a single order. I quite agree with the assessee''s contention.

4. Similar question came up for consideration before the Supreme Court in the case of Commissioner of Sales Tax v. Vijai Int. Udyog 1985 UPTC 131 and then

the Supreme Court with the consent of the parties set aside the order of the High Court as also two separate orders of the Tribunal and directed that both the appeals of the assessee as well as of the Revenue would be reheard on the same day and they would be disposed of by a common judgment to avoid any further difficulty.

5. In this case also, both the parties agree that both the cross appeals be disposed of together by the Tribunal by a common judgment on the same day.

6. In view of this express consent of the parties, the revision is allowed, both the order of the Tribunal, dated 27th October, 1983 passed in the appeal of the Revenue and the order dated 14th August, 1986 passed in the appeal of the assessee are set aside, both the appeals are restored to the Tribunal with a direction that both appeals of the Revenue as well as of the assessee will be disposed of by a common order on the same day afresh according to law. No order as to costs.

