(1970) 11 P&H CK 0008

In the Punjab And Haryana At Chandigarh

Case No : Sales Tax Case No. 2 of 1969

S. Mehar Chand Krishan Kumar — APPELLANT

Vs

The State of Haryana — RESPONDENT

Date of Decision : 26-11-1970

Acts Referred:
Punjab General Sales Tax Act, 1948 — Section 22

Citation : (1971) 28 STC 643

Hon'ble Judges : D.K. Mahajan, J;Bal Raj Tuli, J

Bench : Division Bench

Advocate : G.C. Mittal and S.N. Garg, for the Appellant; M.S. Jain, for A.G., for the Respondent

Final Decision : Dismissed

Judgement

1. This order will dispose of Sales Tax Cases Nos. 2 and 3 of 1969. The question involved in both these cases is the same and, therefore, they are being disposed of by one order.

2. Both these cases arise out of applications u/s 22 of the Punjab General Sales Tax Act. These applications were filed for a reference against the decision of the Financial Commissioner, Haryana, dated 26th May, 1961, requiring the Sales Tax Tribunal, Haryana, to refer questions of law arising out of his order disposing of the assessment under the Sales Tax Act against the petitioners for the opinion of this Court. These applications to the Sales Tax Tribunal were made u/s 22(1) of the Act and were rejected by him on the short ground that they were barred by limitation.

3. It is common ground that the period of limitation for an application u/s 22(1) is sixty days from the passing of the order out of which the questions of law sought to be referred arise. There is no dispute that neither the petitioners nor their counsel were present when the order was passed. We are also proceeding on the ground that no communication of the order was sent by the Commissioner

to the petitioners or their counsel. The fact of the matter is that the petitioners somehow or other came to know of the order and on 5th of June, 1967, applied for a certified copy of that order and the same was supplied to them on 6th of June, 1967. Obviously, therefore, the petitioners had knowledge of the order on 6th of June, 1967, and the limitation would start running from this date. They made the application u/s 22(1) on 7th August, 1967, but the requisite fee for such an application was paid on the 8th of August, 1967. Therefore, a proper application would only be deemed to have been made on 8th of August, 1967, and, in any event, even if the application be taken to have been filed on the 7th August, 1967, it is beyond the period of limitation prescribed. The period prescribed expired on the 5th August, 1967. The view we have taken of the matter finds support from the following decisions:

(1) Govindji v. Commissioner of Saks Tax, Madhya Pradesh [1955] 6 S.T.C. 183(MP) Director of Supplies and Disposals, Calcutta v. Member, Board of Revenue, Government of West Bengal [1960] 11 S.T.C. 589 (SC) State of Punjab Vs. Mst. Qaisar Jehan Begum and Another, .

4. Therefore, there is no error in the order of the Tribunal in rejecting the application u/s 22(1) of the Act as barred by limitation. In this situation, the present applications fail and are dismissed. There will be no order as to costs in either of these two applications.

