(1976) 11 AHC CK 0033

In the Allahabad High Court

Case No : Writ Petition No. 417 of 1976

Sahkari Ganna Kraya Vikraya Evam Prakriyatmak Samiti Ltd , Bisalpur, District Pilibhit	APPELLANT
Vs	
Assistant Sugar Commissioner, Bareilly and another	RESPONDENT

Date of Decision : 18-11-1976

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Sugarcane (Purchase Tax) Act, 1961 — Section 3B

Citation : (1976) 11 AHC CK 0033

Hon'ble Judges : R.M.Sahai, J and D.M.Chandrashekhar, J

Final Decision : Allowed

Judgement

R.M. Sahai, J.

The petition is directed against the notice dated March 19, 1976 issued by the Assistant Sugar Commissioner, Bareilly. The notice stated that the Khandsari Officer, Bareilly, has submitted a report for review of the orders passed by the Khandsari Inspector for the sessions 197273, 197374 and 197475 under Section 3 (b). The notice required the petitioner to appear in the office of the Asstt. Sugar Commissioner, Bareilly, on April 12, 1976 with complete documents and records.

The petition is Dressed on a number of grounds. One of the grounds is that the Sugar Commissioner has no jurisdiction under Section 3 B to revise the assessment orders after expiry of the period of six months from the date when they were passed. It has been stated in the writ petition that the assessment orders for different seasons were passed on different dates but the last order for 197475. which is being sought to be reviewed, was passed in May, 1975. The petitioner has filed as Annexures 1 to 12 to the writ petition, copies of the assessment orders for different months which are proposed to be revised under Section 3B. The dates of various assessment orders are not denied by the respondents in their counter affidavit nor was the notice issued on the basis that proceedings for revision were initiated within a period of six months of the passing of the assessment order. The only legal plea raised in the counter affidavit if that the Assistant Sugar Commissioner is empowered under Section 3B to call for the record and pass the order suo motu.

There is no dispute that the power to revise the order suo motu is contained to Section 3B. The question, however, is whether the Assistant Sugar Commissioner has exercised his power suo motu. There is nothing to indicate either in the notice or in the counter affidavit that the proceedings were started suo motu by the Commissioner. On the other hand, it is clear from the notice that they were initiated on the report submitted by the Khandsari Inspector. Section 3B provides a period of six months for the revision of an order passed by a Khandsari Inspector or Khandsari Officer. There is no dispute that the report for revising the order in each case was made after six months. The proceedings having been initiated after six months, they were barred by time. The Assistant Sugar Commissioner had no jurisdiction to proceed with the matter. The notice issued by him on March 19, 1976 for the revision of the assessment orders for seasons 197273, 197374 and 197475 is consesuently bad.

The result is that the writ petition succeeds and it is allowed. The notice dated March 19, 1975, filed as Annexure ''13'' to the writ petition is quashed and respondent No. 1 is restrained from revising the assessment orders passed for the seasons 197273, 197374 and 197475 under Section 3B of U.P. Sugarcane Purchase Tax Act. Parties shall, however, bear their own costs.

