
(1973) 08 AHC CK 0011
In the Allahabad High Court
Case No : S.T.R. No. 483 of 1971

Sarsowati Devi

APPELLANT

Vs

Commissioner of Sales Tax

RESPONDENT

Date of Decision : 06-08-1973

Acts Referred:

Citation : (1974) 34 STC 8

Hon'ble Judges : R.L. Gulati, J;A. Banerji, J

Bench : Division Bench

Advocate : Kameshwar Prasad, for the Appellant; Standing Counsel, for the Respondent

Judgement

R.L. Gulati, J.—The assessee deals in silver bullion and silver ornaments. For the assessment year 1965-66 he filed returns disclosing a total turnover of Rs. 3,44,648.92 made up of sale of bullion Rs. 3,28,164.32 and sale of ornaments Rs. 16,484.60. The assessee's accounts were rejected and the turnover was estimated at Rs. 4,00,000 consisting of sale of ornaments at Rs. 1,00,000 and sale of bullion at Rs. 3,00,000.

2. On appeal, the turnover of bullion was enhanced to Rs. 3,30,000 and that of ornaments was reduced to Rs. 60,000. His plea for the acceptance of his accounts was rejected. His revision application to the revising authority was also rejected. He then applied for a reference u/s 11(1) and the Revising Authority, Allahabad, has submitted this statement of the case with the following two questions for the opinion of this Court:

(1) Whether, under the facts and circumstances of this case, best judgment assessment was justified ?

(2) Whether, in the facts and circumstances of this case, there was material to justify the rejection of the applicant's accounts for 1965-66 and to support the determination of the turnover of the sales of bullion at Rs. 3,30,000 and of ornaments at Rs. 60,000 ?

3. The assessee maintains his accounts from Asharh to Asharh while he is assessed on the basis of financial year. Thus, his accounting year falls in two assessment years. His accounts for the immediately preceding years were rejected. As part of the accounting year of the preceding assessment year projected into the present assessment year, the accounts for this year were also rejected on the ground that as part of the accounts had already been rejected, the entire accounts stood vitiated. This reasoning is wholly wrong. Each assessment year is a separate and self-contained unit of assessment and the accounts of each year must be judged with reference to the material pertaining to that assessment year. Merely because the accounts of the preceding year were rejected was no ground for rejecting the accounts for the assessment year in question. If this reasoning of the sales tax authorities is accepted, the account books of the assessee would never be accepted because a part of the assessment year would always fall in the succeeding assessment year. Besides this, no other defect had been found in the accounts which consisted of rokar, roznamacha, khata, cash memos, credit memos and purchase memos. The sales tax authorities have not pointed out what was wanting in the account books. We have pointed out on several occasions that the account books maintained by an assessee should not be lightly rejected. A resort to best judgment assessment can only be made if the account books produced are incomplete or otherwise unreliable and there is material to show that the assessee has suppressed his sales. In the absence of such a finding, best judgment assessment is not permissible. In the instant case, no material has been placed on the record to show that the accounts were either incomplete or unreliable, nor is there any specific instance of suppression of sales. In these circumstances, the rejection of the assessee's accounts and the assessment of the turnover on best judgment basis was wholly uncalled for.

4. We accordingly answer question No. (1) in the negative in favour of the assessee and against the department. In view of our answer to question No. (1) question No. (2) will not survive.

5. The assessee is entitled to the costs which we assess at Rs. 100.