(1993) 02 GUJ CK 0024

In the Gujarat High Court

Case No : Sales Tax Reference No. 19 of 1990

Satish Chandra D. Modi APPELLANT

Vs

State of Gujarat RESPONDENT

Date of Decision : 12-02-1993

Acts Referred:
Gujarat Sales Tax Act, 1969 — Section 69

Citation : (1993) 02 GUJ CK 0024

Hon'ble Judges : M.B. Shah, J;C.V. Rane, J

Bench : Division Bench

Advocate : J.S. Joshi and S.L. Modi, for the Appellant; K.M. Mehta, Additional Government Pleader, instructed by H.V. Chhatrapati and Co., for the Respondent

Judgement

M.B. Shah, J.—The Gujarat Sales Tax Tribunal has referred the following question for our decision u/s 69 of the Gujarat Sales Tax Act, 1969 (hereinafter referred to as "the Sales Tax Act").

"Whether on the facts and in the circumstances of this case, the conclusion of the Tribunal based on seized item No. 12 regarding purchases of coal by the applicant was perverse ?"

2. For referring to the aforesaid question, in paragraph 10, the Tribunal has observed :

"10. The point whether the decision of this Tribunal on facts is perverse or not is indisputably a question of law and since it has been raised before us we have no other alternative but to refer the same to the Gujarat High Court for decision."

3. In our view, before referring the question for decision, the Tribunal ought to have considered as to whether prima facie the order passed by the Tribunal was perverse; otherwise, there was no reason for referring the question of appreciation of facts for our decision.

4. Apart from this aspect, in our view, it cannot be said that the order passed by

the Tribunal on the basis of seized item No. 12 regarding purchases of coal by the applicant can be said to be in any way perverse. The Tribunal has discussed the evidence in detail which was produced before the sales tax authorities and has appreciated various statements made by the applicant. The Tribunal has also relied upon the verification made by he Inspector of Industries who had found the details shown in the statement to be correct. In our view, considering the reasons given by the Tribunal in its judgment and order dated June 8, 1983, the Tribunal has appreciated the evidence in its proper perspective and, therefore, it cannot be said that appreciation of evidence by the Tribunal based on seized item No. 12 regarding purchases of coal by the applicant is in any way perverse or unreasonable. In a case where on appreciation of evidence other view is possible, it would not be a ground for holding that the order is perverse.

5. In the result, the question is answered in the negative. There shall be no order as to costs.

6. Reference answered in the negative.