(2007) 02 AHC CK 0274

In the Allahabad High Court

Shakti Gramodyog Sansthan — APPELLANT

Vs

Commissioner, Trade Tax — RESPONDENT

Date of Decision : 26-02-2007

Acts Referred:
Uttar Pradesh Trade Tax Act, 1948 — Section 11

Citation : (2009) 24 VST 340

Hon'ble Judges : Rajes Kumar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rajes Kumar, J.—These five revisions u/s 11 of the U.P. Trade Tax Act, 1948 (hereinafter referred to as, "the Act") are directed against the order of the Tribunal dated December 21, 2005 relating to the assessment years 1992-93, 1993-94, 1994-95, 1995-96 and 1996-97 under the Central Sales Tax Act, 1956 (hereinafter referred to as, "the Central Act").

2. The question involved in all the revisions relates to the exemption on the manufactured goods under the Central Act.

3. Brief facts of the case are that the applicant is an institution certified by U.P. Khadi and Village Industries Board engaged in the manufacturing of shoes. In exercise of power u/s 4(b) of the U.P. Trade Tax Act goods manufactured by the institution certified by U.P. Khadi and Village Industries Board is not liable to tax under the Notification No. ST-2-7037/X-7(23)/83-U. P. Act XV/48-Order-85, dated January 31, 1985. The applicant claimed the exemption on the turnover of the manufactured goods u/s 8(2-A) of the Central Act on the ground that under the aforesaid notification dated January 31, 1985 issued u/s 4(b) of the Act turnover of shoes in the hands of the applicant was exempted from tax under the U.P. Trade Tax Act. The claim of exemption had been rejected by the assessing authority, which has been confirmed by the Tribunal. The Tribunal, by the impugned order held that under the aforesaid notification issued u/s 4(b) of the

Act the commodity manufactured by the applicant was not generally exempted and it was exempted only when it was certified by U.P. Khadi and Village Industries Board and thus, the provisions of Section 8(2-A) of the Act is not applicable.

4. Heard learned Counsel for the parties.

5. Similar question came up for consideration before this Court in Trade Tax Revision No. 195 of 1998, (Commissioner, Trade Tax, U.P. Lucknow v. Bhartya Charmodhyog Sangh, Saket Colony, Agra), decided on February 22, 20071 where this Court held as follows : (at page 76)

In view of the above law laid down by the apex court institutions certified by All India Khadi and Village Industries Commission, Bombay or by the Uttar Pradesh Khadi and Village Industries Board, Kanpur, notification granting exemption to the institutions cannot be said to be general exemption granted to the goods but by the aforesaid two circulars referred hereinabove such exemption have been treated as general exemption granted to the goods u/s 8(2A) of the Central Act and the goods manufactured by such institutions have been treated exempted from tax under the Central Act. The apex court held that the circulars are binding upon the revenue authorities though they may be contrary to the statute and it is not open to the revenue authorities to take a different stand. Thus, so long as the circular stands and is not withdrawn revenue authorities cannot take a different stand contrary to the circular. It is not the case of the revenue that the circulars have been withdrawn.

6. Issues involved in the present revisions are squarely covered by the decision of this Court in Trade Tax Revision No. 195 of 1998, (Commissioner, Trade Tax, U.P. Lucknow v. Bhartya Charmodhyog Sangh, Saket Colony, Agra), decided on February 22, 20071 referred hereinabove.

7. Respectfully following the aforesaid decision, it is held that the applicant was entitled for the exemption on the sale of shoes under the Central Act in view of Section 8(2A) of the Central Act being a unit certified by the U.P. Khadi and Village Industries Board.

8. In the result, all the revisions are allowed. Order of the Tribunal is set aside. Tribunal is directed to pass appropriate orders u/s 11(8) of the Act.

