(1977) 11 AHC CK 0021

In the Allahabad High Court

Case No : S.T.R. No. 160 of 1975

Suraj Kumar Pandey APPELLANT

Vs

Commissioner of Sales Tax RESPONDENT

Date of Decision : 30-11-1977

Acts Referred:

Citation : (1978) 42 STC 452

Hon'ble Judges : C.S.P. Singh, J;B.N. Sapru, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

C.S.P. Singh, J.—The question referred is :

Whether there was any material for not accepting the account books or for the view that the account books cannot be accepted in toto ?

2. The dispute relates to the assessment year 1966-67, i. e., for the period 1st April, 1966, to 31st March, 1967. On 3rd February, 1967, a survey was conducted at the business premises of the dealer in which certain papers relating to the period 2nd April, 1965, to 27th November, 1965, were found. Assessment for that period was made on the basis of the survey. However, the accounts of the assessee for this assessment year were also rejected on the basis of this survey, although the Judge (Revisions) was alive to the fact that inasmuch as the survey did not disclose any incriminating material for the year in question it could not be used as a basis for rejecting the accounts of the assessee. The approach of the Judge (Revisions) is clearly wrong. As the survey did not yield anything as respects the assessment year, the fact that the dealer''s account books could not be relied upon for the earlier years, was not a valid ground for rejection of the account books of the assessee for the year in question. The rejection of the account books of the assessee is based on no material on the record and rests on bare suspicion and, as such, cannot be sustained.

3. We accordingly answer the question in the negative in favour of the assessee

and against the department. The assessee is entitled to its costs which is assessed at Rs. 100. Counsel''s fee is assessed at Rs. 200.

