(2008) 02 AHC CK 0276

In the Allahabad High Court

Sushila Industries		APPELLANT
	Vs	
Commissioner of Sales Tax		RESPONDENT

Date of Decision : 06-02-2008

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

Citation : (2009) 25 VST 605

Hon'ble Judges : Vikram Nath, J

Bench : Single Bench

Judgement

Vikram Nath, J.—Heard Sri Ashok Kumar learned Counsel, for the dealer and Sri B. K. Pandey, learned Standing Counsel for the Department.

2. All these revisions have been filed by the dealer u/s 11 of the U.P. Trade Tax Act, 1948 (hereinafter referred to as, "the Act") against common judgment and order of the Sales Tax Tribunal, II Bench, Ghaziabad dated December 5, 1991. The Tribunal by the said judgment had dismissed all the four appeals filed by the dealer. The dispute relates to the assessment years 1983-84, 1985-86-U.P. and Central.

3. The question sought to be raised by these revisions, which is common is "as to whether the Tribunal was legally justified in treating the sale of ''marble stones'' as sale of ''marble tiles'' and accordingly applying the rate of tax on such sales at 12 per cent treating it to be ''marble tiles'' instead of six per cent treating it to be ''marble stones''".

4. The dealer had produced before the Tribunal the product which it was selling and upon inspection of the manufacturing product of the dealer the Tribunal had recorded finding that they were "marble tiles" and not "marble stones". The Tribunal had also recorded a finding that the product sold by the dealer was uniform in shape and size and were used without any further treatment.

5. The controversy involved in these revisions is squarely covered by the decision of this Court in the case of Jain Marble Home, Meerut Cantt. v. Sales Tax

Tribunal, Lucknow reported in 1996 UPTC 116 wherein this Court in similar circumstances had held that "marble tiles" would be covered by entry No. 67 of Notification No. 5784 and would be taxable at 12 per cent and would not be covered by entry No. 40 of Notification No. 5785 to be taxed at six per cent, as alleged by the dealer. I do not find any reason to disagree with the law laid down in the aforementioned case of Jain Marble [1996] UPTC 116. These revisions do not raise any question of law.

6. They are, accordingly, dismissed.

