(2016) 02 AHC CK 0303

In the Allahabad High Court

Case No : Sales/Trade Tax Revision Defective No. 770 of 2011

The Commissioner, Commercial Tax, U.P. Lucknow — APPELLANT

Vs

M/S Maa Sharda Construction — RESPONDENT

Date of Decision : 09-02-2016

Acts Referred:

Citation : (2016) 92 UPTC 273

Hon'ble Judges : Bharati Sapru, J.

Bench : Single Bench

Advocate : S.C, for the Applicant

Final Decision : Dismissed

Judgement

Bharati Sapru, J.—Cause shown is sufficient; delay is condoned.

2. This revision has been filed by the State for the assessment year 2005-06 against the order dated 19.4.2011 passed by the tribunal.

3. The question of law referred to is as under:

"(i) Whether on the facts and in the circumstances of the case, the Trade Tax Tribunal was legally justified in setting aside the order passed u/s 10B passed by the Joint Commissioner(Executive) remanding the matter for fresh adjudication by the assessing officer whereas there was no material on record for allowing the appeal by the Tribunal?."

4. The Tribunal has examined the matter and has come to the conclusion that the procedure under Section 10B was not contemplated at all in the facts and circumstances of the present case because there as no material before the revising authority to do so. The Tribunal has, therefore, rightly set aside the proceedings under Section 10B of the Act.

5. In view of the findings recorded by the Tribunal, the question of law is answered in favour of the assessee and against the department.

6. The revision is dismissed as above. No costs.