(1986) 01 AHC CK 0049

In the Allahabad High Court

Case No : Sales Tax Revision No''s. 28 and 29 of 1986

Virendra Kumar and Brothers APPELLANT

Vs

Commissioner of Sales Tax RESPONDENT

Date of Decision : 23-01-1986

Acts Referred:

Uttar Pradesh Sales Tax Act, 1948 — Section 11(1)
Uttar Pradesh Sales Tax Act, 1948 — Section 11(1)
Uttar Pradesh Sales Tax Act, 1948 — Section 11(1)

Citation : (1987) 66 STC 379

Hon'ble Judges : Anshuman Singh, J

Bench : Single Bench

Advocate : Bharatji Agarwal, for the Appellant; P.K. Jain, for the Respondent

Final Decision : Disposed Of

Judgement

Anshuman Singh, J.—These two revisions u/s 11(1) of the U.P. Sales Tax Act, at the instance of the assessee have been preferred against the judgment dated September 20, 1985, passed by the Sales Tax Tribunal, Varanasi, relating to assessment years 1976-77 and 1977-78. Since both the revisions arise out of a common order, they are being disposed of by a common judgment.

2. The assessee carries on the business of purchase and sale of matches. The books of account of the assessee for the years in question were rejected by all the three authorities below.

3. I have heard Sri Bharatji Agarwal, learned counsel for the assessee and Sri P.K. Jain, learned counsel for the Commissioner of Sales Tax. Learned counsel for the assessee has not been able to assail the findings recorded by the Tribunal for rejecting the books of account and also on the question of fixation of turnover and the order passed by the Tribunal in so far as it relates to the year 1976-77 is perfectly justified and does not require any interference.

4. As regards the assessment year 1977-78, counsel for the assessee submitted

that the reasons given by the Tribunal for rejecting the books of account and not accepting the disclosed turnover are wholly irrelevant. The only discrepancy found by the Tribunal is that at the time of survey dated September 30, 1977, one truck match box was purchased for which Rs. 1,850 were paid as transportation charges but no cash memo was issued. The explanation of the assessee was that since the munim was not present, the entries in respect of that purchase were not made in the books of account. The other reason for rejecting the books of account is that on survey dated September 30, 1977, the assessee had disclosed stock of Rs. 45,000 whereas according to the books of account it was only Rs. 42,000. Counsel for the assessee contended that a slight variation in the estimate given by the assessee and the actual stock recorded in the books of account is highly technical and the disclosed turnover of the assessee should not have been rejected on the basis of the said minor variation. After hearing counsel for the parties and perusing the order of the Tribunal I am of the opinion that the order in so far as it relates to the year 1977-78 cannot be sustained and is liable to be set aside.

5. In the result the revision relating to assessment year 1976-77 is rejected and the revision relating to assessment year 1977-78 is allowed and the order of the Tribunal in respect of that year is set aside and the disclosed turnover of the is accepted. A copy of the order be sent to the Tribunal concerned for passing suitable order u/s 11(8) of the Act. However, there will be no order as to costs.

