

(1985) 03 AHC CK 0039

Allahabad High Court

Case No: S.T.R. No"s. 377, 378 and 379 of 1984

Bharat Brick Kiln

APPELLANT

Vs

The Commissioner of Sales Tax

RESPONDENT

Date of Decision: March 20, 1985

Acts Referred:

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

Citation: (1986) 61 STC 368

Hon'ble Judges: Anshuman Singh, J

Bench: Single Bench

Advocate: Bharatji Agarwal, for the Appellant; The Standing Counsel, for the Respondent

Final Decision: Allowed

Judgement

Anshuman Singh, J.

These three revisions have been preferred by the assessee u/s 11(1) of the U.P. Sales Tax Act (hereinafter referred to as the Act) against the judgment passed by the Sales Tax Tribunal, Agra, dated 22nd May, 1984, relating to the assessment years 1975-76, 1977-78 and 1978-79. Since these revisions have been filed against a common order passed by the Tribunal, they are being disposed of by a single order.

2. The assessee was a manufacturer of bricks. The disclosed turnovers of the assessee for the years in question were not accepted and best judgment assessments were passed by the assessing authority. The assessee feeling dissatisfied preferred first appeals u/s 9 of the Act before the Assistant Commissioner (Judicial), Sales Tax, who reduced the turnovers fixed by the assessing authority. The assessee feeling further aggrieved preferred three second appeals before the Tribunal which remanded the cases back to the Sales Tax Officer with a direction that he shall decide the same in the light of the observations made in its judgment. Against the aforesaid orders of the Tribunal the assessee has come to this Court in the instant revisions.

3. Learned counsel appearing for the assessee contended that the Tribunal committed an error in remanding the cases back to the Sales Tax Officer for fresh assessments without assigning any reason as to why fresh assessments were necessitated. A perusal of the order passed by the Tribunal shows that it has narrated the arguments advanced on behalf of the assessee and the reply of the State representative. It is strange that the Tribunal without giving reasons on the controversy involved in the instant cases and also without rejecting the arguments advanced on behalf of the assessee disposed of the appeals in a cursory manner only by saying:

I have carefully considered the facts of these cases. I find that the facts of these cases have not been properly examined. Therefore, there is no alternative before me except to remand these cases to the assessing authority for re-examining them and deciding them on merits afresh keeping in view the explanations offered by the appellant.

4. From a reading of the aforesaid finding it would appear that the Tribunal has not recorded any reasons for coming to the conclusion that the cases were not properly examined. It also did not record any reason as to why the cases were to be sent back to the Sales Tax Officer. In case there was any defect in the,, order of the Assistant Commissioner (Judicial) the matter should have been sent back to him and not to the Sales Tax Officer. It is also pertinent to mention that the revenue did not file any appeal before the Tribunal and it is only the assessee which was aggrieved against the fixation of the turnovers by the Assistant Commissioner (Judicial). In view of the aforesaid fact the remand of the cases back to the assessing authority was wholly uncalled for. The order passed by the Tribunal is a very cryptic order. In fact the judgment given by it is no judgment in the eye of law. In the hierarchy of the authorities provided under the statute the Tribunal is the highest and last fact-finding authority. It is supposed to apply its mind to the facts of the cases and pass a reasoned order. Findings based on no reason are no findings at all. Before parting with the cases I would like to express that the Tribunal should not pass such orders and the tendency on the part of the Tribunal in disposing of appeals in such manner should be deprecated.

5. In the result the revisions succeed and are accordingly allowed. The orders passed by the Tribunal are quashed and it is directed to decide the appeals afresh and record its own reasons in support of the findings arrived at. However, there will be no order as to costs.

6. Let a copy of this order be sent to the Tribunal concerned as contemplated u/s 11(8) of the Act.