

(1977) 03 AHC CK 0020

Allahabad High Court

Case No: S.T. Ref. No. 559 of 1973

COMMISSIONER OF SALES TAX

APPELLANT

Vs

GURDAS MAL DAYA RAM.

RESPONDENT

Date of Decision: March 30, 1977

Citation: (1977) 6 CTR 155

Hon'ble Judges: R. M. Sahai, J

Bench: Division Bench

Judgement

@JUDGMENTTAG-ORDER

R. M. Sahai, J. - The following question has been referred for the opinion of this Court :

"Whether, on the facts and in the circumstances of the case, the Additional Judge (Revisions), Sales Tax, Bareilly, was legally justified in directing that the assessee's purchases, the extent they were made from other registered dealers, in respect of oil seeds on and from 1.10.1964, should be exempted from tax irrespective of any other considerations ?

2. The revision was allowed and the case was sent back to the Assessing Authority to find out whether the purchases made by the assessee were from a registered dealer. It was obviously done on the basis of the decision of a Division Bench of this Court in Shadi Ram Ganga Prasad vs. State of U.P. The question stands concluded by the decision of a Division Bench of this Court in Commissioner of Sales Tax U.P. vs. M/s. Channa Lal Ratan.

3. Following the latter decision, we answer the question referred to us in the negative, in favour of the Department and against the assessee by saying;

"The Additional Judge (Revisions) Sales Tax, Bareilly, was not justified in directing that the assessee's purchases to the extent that they registered dealers in respect of oil seeds on and from tax irrespective of any other consideration. The assessee

would further be entitled to raise the question that the turnover of purchases in question was not the first purchase within the Explanation added to S. 3-D (1) of the Act."

4. In the circumstances, we direct the parties to bear their own costs in this reference. 30.3.1977.