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**(1969) 01 AHC CK 0006**

**Allahabad High Court**

**Case No:** Sales Tax Reference No. 535 of 1966

Ganpat Rai Munna Lal

APPELLANT

Vs

Commissioner, Sales Tax

RESPONDENT

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**Date of Decision:** Jan. 1, 1969

**Citation:** (1969) 24 STC 87

**Hon'ble Judges:** R.L. Gulati, J; Jagdish Sahai, J

**Bench:** Division Bench

**Advocate:** N.N. Pachauri, for the Appellant; Standing Counsel, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

Jagdish Sahai, J.

This reference has been made to us at the instance of the assessee, M/s. Ganpat Rai Munna Lal, by the Additional Range. The question referred to us reads :-

Whether on the facts and in the circumstances of the case the exemption fee was to be paid on the turnover of foodgrains from 22nd August, 1957, or from 24th August, 1957, to 31st March, 1958.

2. The facts, as disclosed in the statement of the case, are that the assessee, who is a dealer in foodgrains, made an application on 20th of May, 1957, for exemption. He, however, filed along with the application a chalan showing the deposit of Rs. 500 only whereas the deposit should have been of Rs. 2,000. There was thus a deficiency of Rs. 1,500 in the deposit.

3. On 22nd of August, 1957, the assessee deposited a sum of Rs. 1,500 in the State Bank of India at Deoria. He, however, did not file the chalan showing the deposit on that date, that is on 22nd of August, 1957. The chalan was deposited by the assessee on 24th of August, 1957.

4. The question for consideration is whether in view of Rule 20-B of the Rules framed under the Uttar Pradesh Sales Tax Act (hereinafter referred to as the Rules) it can be

said that the application dated 20th of May, 1957, came to be accompanied by a chalan on 22nd of August, 1957, or in the eye of law it came to be accompanied by a chalan only on 24th of August, 1957. Rule 20-B of the Rules, so far as relevant for our purposes, reads:

Application for certificate of exemption by foodgrains dealers.-(a) Every dealer in foodgrains seeking to obtain exemption certificate in accordance with a notification issued u/s 4, shall submit to the Sales Tax Officer an application for exemption in Form V, which, unless otherwise provided, shall be presented within thirty days of the commencement of the year for which it has been made, and shall be accompanied by a treasury chalan showing deposit of one-fourth of the exemption fee calculated on his turnover of the previous year:

(e) If the Sales Tax Officer after such enquiry, as he may deem necessary, is satisfied that the application is in order and the fee has been correctly calculated, he shall issue a provisional exemption certificate to the dealer in Form VI-A.

(f) A certificate issued under Sub-rule (e) on an application filed within the period specified in Sub-rule (a) or (b) shall have effect from the beginning of the assessment year or from the date from which the dealer became entitled to exemption, as the case may be. If the application is filed after the due date, the exemption certificate shall have effect from the date of application.

5. Mr. Pachauri, who has appeared for M/s. Ganpat Rai Munna Lal, has strenuously contended that inasmuch as Clause (a) of Rule 20-B clearly provides that what shall accompany the application is the chalan and not mere deposit of money, it is not possible to depart from the express language of the rule and to say that even though the law requires that the application should be accompanied by a chalan, it stands fully complied if a payment is made and the date of payment will be deemed to be the date of the chalan.

6. We have given the matter our anxious consideration. All that the law requires is that at least one-fourth of the exemption fee calculated on the turnover of the dealer should be deposited. The matter of substance is the deposit of amount and the chalan is only the evidence to show that the amount has been deposited. It would be noticed that the rulemaking authority has used the words "treasury chalan showing deposit". The use of the word "showing" would indicate that the only function of the treasury chalan is to render prima facie evidence that the amount has already been deposited. If a dealer were to file a forged chalan, it would not be a compliance of the rule or if he files a chalan which though prepared bona fide is wrong in details and shows a larger deposit than actually made, it would again not be complying with Clause (a) of Rule 20-B. This clause has been framed to implement a well accepted rule of public policy that in taxation matters deposit should proceed before appeals or applications are made or heard. Since the deposit is to be made in the treasury or in the State Bank and the application is to be filed

before the Sales Tax Officer, who is neither the Treasury Officer nor the Agent of the State Bank, it became necessary that some evidence that the deposit had already been made should be furnished to the Sales Tax Officer. That is why Rule 20-B(a) requires that the application should be accompanied by a chalan. It is not the intention of the rule that not the deposit of the money, but the filing of chalan is of substance. It, therefore, appears to us that the expression "accompanied by a treasury chalan showing deposit" only means that either before or on the same date as the application is made, the deposit should be made.

7. Clause (e) of Rule 20-B requires the Sales Tax Officer to make an enquiry and if he is satisfied that the application for exemption is in order and the fee has also been correctly calculated, he shall issue a provisional exemption certificate to the dealer. This clause read with Clause (f) of Rule 20-B yields the result that in case the application is filed after the due date, the exemption certificate granted under Clause (e) shall have the effect from the date of application. This would indicate that an application for exemption does not become competent until the Sales Tax Officer has satisfied himself that the amount of fee has been properly calculated and paid.

8. From this it follows that what is of substance is the payment of the correct amount and not the mere filing of the chalan. As said earlier, the only function of a chalan is to furnish proof that the payment has already been made.

9. That being the position we "answer the question referred to us in favour of the department and against the assessee by saying that the fee was to be paid on the turnover from 22nd of August, 1957, to 31st of March, 1958. In the circumstances of the case we direct the parties to bear their own costs.