
(1997) 10 AHC CK 0099

Allahabad High Court

Case No: Trade Tax Revision No. 1087 of 1997

Kanhaiya Lal Suraj Prasad

APPELLANT

Vs

Commissioner of Trade Tax

RESPONDENT

Date of Decision: Oct. 16, 1997

Citation: (1997) AWC 597 Supp

Hon'ble Judges: S.L. Saraf, J

Bench: Single Bench

Advocate: Piyush Agrawal, for the Appellant;

Final Decision: Disposed Of

Judgement

S.L. Saraf, J.

The applicant was carrying on the business of sale and purchase of fertilizer and chemicals and was registered under Central Sales Tax Act. Sometime during the assessment in question, he wanted to start the business of cement by purchasing the same from outside the State of U.P., without applying for registration under Central Sales Tax Act, he straightway applied for issuance of Form "C" for the import of cement from outside the State of U.P. The authority concerned also, without verifying the same, issued Form "C" to the applicant with direction to furnish security of Rs. 50,000, since the applicant wanted to import the cement from outside the State of U.P. From the documents disclosed, it, nowhere, appears that any application for registration under Central Sales Tax for import of cement has been filed or any application for amendment to the existing certificate of registration relating to chemical and fertilizer has been made. However, the authorities in the ignorance of the factum of non-registration in case of import of cement, allowed the applicant to import cement by issuance of Form "C". Subsequently, the authorities concerned imposed penalty on the applicant for import of cement without having been registered under the Central Sales Tax Act. The first appellate authority held that such penalty was not justified but the Tribunal, thereafter considered the matter and held that since the applicant was not a registered dealer under Central

Sales Tax Act, 1956, as such, he was not entitled to get Form "C" which was issued in violation of provisions of Central Sales Tax Act, 1956.

2. On consideration of facts of the instant case, where the applicant applied for issuance of Form "C" for the import of cement from outside the State of U.P. and the authorities concerned in the ignorance and without ascertaining as to whether the applicant was a registered dealer under Central Sales Tax Act, 1956 or not?, issued Form "C" and allowed the applicant to import cement from outside the State of U.P. It appears that mistake was committed by both sides. However, it was the primary duty of the importer to have certificate of registration under Central Sales Tax Act, 1956 before applying for Form "C" which was not done in the instant case, as such, I reduce the penalty from Rs. 26,000 to Rs. 5,000 and the order of the Tribunal dated 27.6.1997 is modified accordingly.

3. With these observations, the revision stands disposed of. There will be no order as to costs.