

(1999) 08 AHC CK 0217

Allahabad High Court

Case No: Trade Tax Revision No's. 857 and 858 of 1995

Commissioner of Trade Tax

APPELLANT

Vs

Singh Trading Co.

RESPONDENT

Date of Decision: Aug. 24, 1999**Acts Referred:**

- Uttar Pradesh Sales Tax Act, 1948 - Section 11

Citation: (2000) 119 STC 475**Hon'ble Judges:** M.C. Agarwal, J**Bench:** Single Bench**Advocate:** Surya Prakash, for the Appellant; Piyush Agrawal, for the Respondent**Final Decision:** Dismissed

Judgement

M.C. Agarwal, J.

These two revision petitions by the Commissioner of Trade Tax are directed against an order dated November 11, 1994 passed by the Trade Tax Tribunal, Moradabad, whereby it allowed the dealer's appeals in respect of its assessment under the Central Sales Tax Act, 1956 and U.P. Trade Tax Act, 1948 for assessment year 1993-94.

2. I have heard Sri Surya Prakash, learned Standing Counsel for the Commissioner and Sri Piyush Agrawal, learned counsel for the respondent.

3. The dealer-respondent is a merchant of gur. The question is whether the purchases of gur were made by it on its own behalf or they were made as commission agent acting for ex-U.P. principals. The assessing officer held that the purchases were in the dealer's own account and the despatch of those goods subsequently to ex-U.P. businessmen were by way of inter-State sales. This finding was upheld by the first appellate authority. The dealer appealed to the Tribunal which has reversed the finding and held that the purchases were made on behalf of ex-U.P. principals and, therefore, the purchases being in the course of inter-State

trade and commerce, were not taxable under the U.P. Trade Tax Act and there were no inter-State sales of the goods. This is a pure finding of fact. I have been taken through the Tribunal's order and no illegality requiring interference in revisional jurisdiction u/s 11 of the U.P. Trade Tax Act, 1948 is made out.

4. The revision petitions are dismissed.