

(2010) 07 AHC CK 0473

Allahabad High Court

Case No: Writ Tax No. 418 of 2007

Shree Ganesh Menthol

APPELLANT

Vs

Dy. Commissioner Trade Tax
Rampur and Others

RESPONDENT

Date of Decision: July 20, 2010

Acts Referred:

- Uttar Pradesh Trade Tax Act, 1948 - Section 21

Hon'ble Judges: Rajes Kumar, J; Bharati Sapru, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. By means of the present writ petition, the Petitioner is challenging the validity of the order passed under the Proviso to Section 21 of the U.P. Trade Tax Act (hereinafter referred to as the "Act") passed by Additional Commissioner granting approval to initiate the reassessment proceeding for the assessment year 2000-01 under the U.P. Trade Tax Act and further the notice issued u/s 21 of the Act by the Deputy Commissioner (Assessment). The proceeding u/s 21 of the Act has been initiated on the basis of the decision of the Apex Court in the case of M/sMonga Rice Mill etc. v. State of Haryana and another, reported in 2004 NTN 24 545 in which it has been decided that the exemption on the purchase of rice can only be given when the miller exporter exports the goods. Under the similar facts and circumstances, several writ petitions have been filed before this Court challenging the validity of the proceedings u/s 21 of the Act. The said writ petitions have been decided by this Court vide order dated 24.11.2009 and the initiation of proceedings u/s 21 of the Act has been held valid. The Court has also adjudicated the matter on merit. The said judgment is reported in 2009 41 NTN 350 in the case of M/s Neeru Interprises Salem Manjil, Civil Lines, Rampur v. Dy. Commissioner (Asstts.)-II, Trade Tax, Rampur and others. Against the aforesaid decision, parties have filed SLP being Special Leave to appeal (Civil) No. (s)8919/2010. The aforesaid appeal has been

dismissed with the following observations:

Learned senior counsel for the Petitioners seeks leave to withdraw the petitions stating that Petitioners would like to raise all the objections to the reopening of the completed assessments for relevant assessment years before the assessing authority.

Accordingly, the special leave petitions are dismissed as not pressed.

It goes without saying that the objections, as may be raised by the Petitioners before the assessing authority, shall be considered on their own merit uninfluenced by any observation in the impugned order or by the dismissal of these special leave petitions.

2. In view of the aforesaid facts and circumstances, the writ petition is disposed of as follows:

The initiation of the proceedings u/s 21 of the Act is held valid. However, the Petitioner is permitted to raise the objections before the assessing authority and the assessing authority is directed to decide the objections in accordance to law uninfluenced by the observations made by the Division Bench of this Court in the case of M/s Neeru Interprises (Supra).