

(1997) 04 AHC CK 0167**Allahabad High Court****Case No:** C.M.W.P. No. 498 of 1983

Ujagar Mal Chandra Bhan

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision: April 3, 1997**Acts Referred:**

- Central Sales Tax Act, 1956 - Section 14, 15, 7, 8(4), 8(5)

Hon'ble Judges: R. Dayal, J; M.C. Agarwal, J**Bench:** Division Bench**Advocate:** Abha Tandon and R.K. Agarwal, for the Appellant; B.K. Pandey and S.C., for the Respondent**Final Decision:** Dismissed**Judgement**

R. Dayal and M.C. Agarwal, JJ.

By the present writ petition, the Petitioner seeks a declaration that a portion of the Notification issued by the State Government under Sub-section (5) of Section 8 of Central Sales Tax Act, 1956 is ineffective, illegal, null and void. Material portion of the aforesaid Notification No. ST-II-10857/X-6 (23)-79-U.P. Act-74-56-Order-79, dated 7th December, 1979, reads as under:

Now, therefore, in exercise of the powers under Sub-section (5) of Section 8 of the Central Sales Tax Act, 1956 (Act No. 74 of 1956), the Governor is pleased to direct that, with effect from December 7, 1979, no tax under the said Act shall be payable by any dealer, registered u/s 7 thereof and having his place of business in Uttar Pradesh, in respect of the sale by him in the course of inter-State trade or commerce from such place of business of cotton yarn, but not including cotton yarn waste, provided that such cotton yarn is purchased from a registered dealer within Uttar Pradesh and the tax payable thereon under the U.P. Sales Tax Act, 1948 (U.P. Act No. XV of 1948) has been paid and the selling dealer of Uttar Pradesh furnishes to the Assessing Authority, in the prescribed manner and within the prescribed period, the

declaration or certificate referred to in Sub-section (4) of Section 8 of the said Act of 1956.

The portion under challenge is "and the selling dealer of Uttar Pradesh furnishes to the assessing authority, in the prescribed manner and within the prescribed period, the declaration or certificate referred to in Sub-section (4) of Section 8 of the said Act of 1956".

2. We have heard Sri R. K. Agarwal, Advocate for the Petitioner and Sri B. K. Pandey, standing counsel for the Respondents. Learned counsel for the Petitioner submits that the requirement in the impugned portion of the notification to furnish Form C is a superfluity and repugnant to the scheme of the Central Sales Tax Act, since there is no logic to require the unregistered dealers who cannot furnish Form "C to first deposit tax under the Central Sales Tax Act at the rate of 2.5 per cent and then claim reimbursement u/s 15 of the same Act, cotton yarn being a declared commodity u/s 14. We are of the view that the argument proceeds on a misconception as if even a registered dealer can furnish Form C as a matter of course. There are certain situations where even a registered dealer cannot furnish Form C. For example, if a registered dealer makes a purchase for consumption at his residence, he cannot furnish Form C. There is no dispute that Form C is required not only to claim exemption under the notification but also to claim reimbursement u/s 15. As such, requirement as to Form C is intended to restrict the benefit of exemption, to sales only for specified purposes and cannot be said to be a superfluity. We do not see any merit in the writ petition.

3. The writ petition is, accordingly, dismissed. There shall be no order as to costs.