

Radhey Shyam Tandon vs The Judge (Appeals) Sales Tax, U.P., ... on 11 August, 1952

Equivalent citations: AIR1953ALL57, AIR 1953 ALLAHABAD 57

JUDGMENT

Malik, C. J.

1. The applicant, Radhey Shyam Tandon, is a resident of Shahjahanpur and is engaged by a number of dealers of Shahjahanpur to look after their cases before the Sales Tax Officer, Judge (Appeals), Judge (Revisions) and Sales Tax Commissioner, U. P. In August or September 1951, he wanted to appear before the Judge (Appeals) and in November 1951 before the Judge (Revisions) and claimed the right to be heard by them, but his prayer was rejected. He has thereupon filed this application under Article 226 of the Constitution and claimed that under the Rules framed under the Sales Tax Act (U. P. Act 15 of 1948, as amended by the U. P. Amendment Act 25 of 1948) he has a right to appear and plead on behalf of the merchants whose cases are pending before the Judge (Appeals) or the Judge (Revisions). Reliance is placed by learned counsel on Rule 77A which reads as follows :

"Unless otherwise provided in the Act or the rules anything which is by the Act or the rules required or permitted to be done by a dealer may be done by an agent of the dealer authorised by him in writing in its behalf; and process served on or notice given to such agent shall be as effectual as if the same had been served on or given to the dealer in person; and all the provisions of the Act or the rules relating to the service of the process on or giving of notice to such agent."

2. The question is whether this Rule 77A gives the applicant, who has set himself up as an agent on behalf of all those who might seek his assistance before the Judge (Sales Tax), (Appeals) or (Revisions), (right?) to appear and plead on their behalf. The relevant rules relating to this matter are 67, 68 and 69. Rule 67 (1) provides that the memorandum of appeal can be presented by the appellant or by his pleader or by his duly authorised agent. Rule 68 (4) provides that on the date of hearing the appellant or his pleader or a registered accountant appointed by the appellant shall be heard. Similar provision is made in Rule 69 (7) for cases before Judge (Revisions). There too a party himself or any practising lawyer of the High Court or of the District Judge's Court or a registered accountant has a right to be heard before the Judge (Revisions). These rules make it perfectly clear that while any agent has a right to act, that is, to present an application, to receive notices etc., the right to plead is restricted only to the applicant himself or a qualified pleader or a registered accountant engaged by a party. The applicant is neither a pleader nor a registered accountant and he had, therefore, no right to plead before the Judge (Sales Tax), (Appeals) or (Revisions).

3. The application has no force and is dismissed with costs.