

Chander Bhan Agarwal vs Sales Tax Officer li, Agra And Anr. on 12 January, 1954

Equivalent citations: AIR1954ALL448, AIR 1954 ALLAHABAD 448

Author: V. Bhargava

Bench: V. Bhargava

ORDER

V. Bhargava, J.

1. I have heard learned counsel for the petitioner in support of this petition under Article 226 of the Constitution praying for the issue of a writ of prohibition directing the Sales Tax Officer, Agra, not to proceed further with the assessment proceedings relating to the assessment of the petitioner under the U. P. Sales Tax Act. A notice was issued by the Sales Tax officer calling upon the petitioner to file the returns of his turnover for the year 1952-53 and at the same time to appear and produce the account books before him on 30-12-1953. The petitioner in reply to this notice sent an application to the Sales Tax Officer on 30-12-1953 asking to be relieved from the order directing him to file the account-books. This application was rejected by the Sales Tax Officer on 4-1-1954, and consequently this petition has been moved before this Court.

2. The first point to be noticed is that the notice dated 21-12-1953 required the petitioner to do two things. He was required to file a return of his turnover and secondly he was required to produce his account books. The petition filed before the Sale Tax Officer on 30-12-1953 did not in any way deal with the question of the filing of the returns of the turnover. The only prayer was that the petitioner be not asked to produce his account-books. If the returns of the turnover can be competently called for, I cannot see why the Sales Tax Officer cannot call for the account-books to verify their correctness.

Of course, if the petitioner considers that he has no turn-over which is liable to assessment under the Sales Tax Act, he can file a return showing that there is no turnover at all. Even in such a case, the Sales Tax Officer would be competent to call for the account-books in order to verify the correctness of the return and to find out whether there was any income liable to tax or not. The order of the Sales Tax Officer dated 4-1-1954 is naturally silent about the question of filing the return as there was no prayer before him in the application dated 30-12-1953 for exemption from filing the return.

Besides this, even in cases where the petitioner claims that he cannot be called upon to file a return or to produce account-books on the ground that he has no turnover liable to sales tax, it cannot be said that the Sales Tax Officer is exercising jurisdiction not vested in him if he calls for the production of the account-books to satisfy himself that there is no taxable turnover of that person. The petition proceeds on the assumption that the Sales Tax Officer, when he examines the Return of the turnover and the account-books, would give a decision which would be contrary to the decision of this Court in -- 'Budh Prakash Jai Prakash v. Sales Tax Officer', AIR 1952 All 764 (A).

No such assumption is justified. It may be that the sales Tax Officer has called for the account-books to satisfy himself that the petitioner has no turnover at all besides the turn-over which is exempted in the light of the decision of this Court, in which case, following the decision of this Court, he may have to drop the assessment proceedings and cancel the notice. No assumption can be made that the Sales Tax Officer will not correctly apply the law. The proceedings which he is taking at this stage are competent and appropriate. The petition, therefore, does not lie and is rejected.