

Allahabad High Court

Commissioner Of Sales Tax vs Rama Industries on 5 August, 1986

Equivalent citations: 1987 67 STC 425 All

Author: A Singh

Bench: A Singh

JUDGMENT Anshuman Singh, J.

1. This revision under Section 11(1) of the U. P. Sales Tax Act (hereinafter referred to as the Act) has been directed by the Commissioner of Sales Tax against the judgment dated 30th September, 1986, passed by the Sales Tax Tribunal, Ghaziabad, allowing the appeal of the assessee relating to assessment year 1972-73.

2. The question raised on behalf of the Revenue in this revision is :

Whether the transactions worth Rs. 2,26,000 disclosed by the assessee as branch transfers were inter-State sales and not branch transfers ?

3. Assessee carried on the business of manufacture and sale of door fittings of aluminium and steel. It has its head office at Shahadra, Delhi, and its factory at 36, Government Industrial Estate, Loni, Ghaziabad. The present assessee feeling aggrieved against the order of the revising authority had come to this Court in revision being S.T.R. No. 444 of 1979 Rama Industries, Loni v. Commissioner of Sales Tax decided on 12th December, 1979. The said revision was allowed by this Court and the revisional court was directed to decide the revision afresh. After the remand, the Tribunal by the impugned order has held that the transactions made by the assessee were branch transfers and not inter-State sales.

4. Mr. P.K. Jain, learned counsel appearing for the Revenue, had contended that the Tribunal has committed an error in holding the transactions of the assessee as branch transfers and in fact they were inter-State sales.

5. Mr. Bharatji Agarwal, learned counsel appearing for the assessee has invited my attention to the aforesaid judgment of this Court dated 12th December, 1979, remanding the case wherein it was observed that:

It has not been found that goods moved out of State in pursuance of contract of sale. Even assuming that slips seized in survey indicated sending of goods out of State the transaction could not be held to be inter-State sale unless it was established that they were sent as a result of prior agreement to sell. In absence of this finding the order cannot be upheld.

6. He submitted that the Tribunal in the impugned order has strictly complied with the directions of this Court and has recorded a positive finding and the said finding is a pure finding of fact which cannot be disturbed in revisional jurisdiction of this Court.

7. I have heard learned counsel for the parties and have carefully perused the order of the Tribunal. The Tribunal has categorically recorded a positive finding that :

On a careful consideration of the entire material before us we do not find any material on record to hold that the goods were sent as a result of prior agreement to sell between the factory at Loni, Ghaziabad, to ex-U. P. purchaser. Therefore, the assessee's claim of branch transfers of stock cannot be rejected and the authorities below committed error in treating the transactions in question as inter-State sales.

8. In view of the said finding I am of the opinion that the Tribunal has rightly held that the transfers made by the assessee were branch transfers of the stock and were not inter-State sales and in doing so the Tribunal has not committed any error.

9. No other point has been pressed in this revision.

10. In the result, the revision fails and is accordingly dismissed. There will be no order as to costs.