

Modi Industries Limited and anr. Vs. Assistant Commissioner (Judicial), Sales Tax and anr.

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Court : Allahabad

Decided On : Apr-19-1985

Reported in : [1986]62STC201(All)

Judge : N.D. Ojha and ;A.N. Dikshita, JJ.

Appeal No. : Civil Miscellaneous Writ Petition No. 696 of 1984

Appellant : Modi Industries Limited and anr.

Respondent : Assistant Commissioner (Judicial), Sales Tax and anr.

Advocate for Def. : The Standing Counsel

Advocate for Pet/Ap. : Bharatji Agarwal, Adv.

Disposition : Petition allowed

Judgement :

N.D. Ojha, J.

1. An appeal filed by the petitioners against the order of assessment for the assessment year 1972-73 was decided by the appellate authority, namely, the Assistant Commissioner (Judicial), Sales Tax, Meerut Range, Meerut, respondent

No. 1, on 31st August, 1979. The petitioners made an application under Section 22 of the U.P. Sales Tax Act, 1948 (hereinafter referred to as the Act), on 2nd November, 1979. A copy of this application has been attached as annexure 2 to the writ petition. This application was subsequently transferred to the Assistant Commissioner (Judicial), Sales Tax, Ghaziabad, respondent No. 2, and is now pending before the said respondent. The case of the petitioners is that even though arguments were heard on the said application on several occasions, the said application has not been decided so far. A prayer has been made in the writ petition for directing respondent No. 2 to decide the said application.

2. The writ petition was filed on 14th August, 1984. It was ordered to be listed for admission after six months. In the meantime the learned standing counsel was required to file a counter-affidavit within three weeks explaining the circumstances in which the aforesaid application could not be decided even though arguments were heard on numerous occasions. No counter-affidavit has, however, been filed so far. Keeping in view the circumstances that inordinate delay has occurred in the disposal of the aforesaid application, we are of opinion that the writ petition deserves to be decided finally at this very stage as contemplated by the second proviso to Rule 2 of Chapter XXII of the Rules of the Court.

3. We have accordingly heard counsel for the parties on the merits of the writ petition. A photostat copy of a certified copy of the order sheet in regard to the aforesaid application has been filed along with the writ petition which substantiates the assertion made by the petitioners in regard to the filing of the application under Section 22 of the Act as well as that arguments have been heard on that application on several dates. The application having been made about five and a half years back, there has apparently been inordinate and undue delay in its disposal. Notwithstanding the fact that an opportunity was granted in this behalf to the respondents to explain the circumstances in which the said application could not be decided so far, no counter-affidavit has been filed. As such, we are of opinion that a case has been made out for issuing a direction to respondent No. 2 to decide the application now without any further delay.

4. In the result this writ petition succeeds and is allowed to this extent that the Assistant Commissioner (Judicial), Sales Tax, Ghaziabad, respondent No. 2, is directed to decide the aforesaid application made by the petitioner under Section 22 of the Act on 2nd November, 1979, within two months of the production of a certified copy of this order by the petitioners before him. This order, however, shall not be applicable in the aforesaid application has already been decided. There shall be no order as to costs.

5. A copy of this order may be supplied to counsel for the parties within three days on payment of necessary charges.

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