

Singhal and Co. Vs. State of U.P. and anr.

Singhal and Co. Vs. State of U.P. and anr.

SooperKanoon Citation : sooperkanoon.com/480191

Court : Allahabad

Decided On : Mar-02-1978

Reported in : (1978)7CTR(All)312

Appeal No. : C.M.W.B. No. 453 of 1975

Appellant : Singhal and Co.

Respondent : State of U.P. and anr.

Judgement :

ORDER

Satish Chandra, J. - The petitioner challenges the assessment order dated February 27, 1975 passed for the assessment year 1971-72. One of the grounds taken in the writ petition was that Rule 8-B of the Central Sales Tax Rules, 1957 was ultra vires in so far as it required the filing of the forms E-1 and C along with the return. The Sales Tax Officer refused to consider these forms because they had not been filed along with the return.

2. This petition came up for hearing on January 6, 1978. On that date, we adjourned the Sales Tax Officer to reconsider the matter. The Sales Tax Officer has, after hearing the petitioner-assessee, passed a fresh order of rectification on January 21, 1978 in which he had specifically stated that the petitioner was entitled to consideration of form E-1 and has granted adequate relief. For sales worth Rs. 13,119.11, the petitioner did not have any form C at all and, therefore,

he was not granted any exemption. The Sales Tax Officer may have been right or wrong but we cannot go into the merits of the matter in a writ petition when an appeal lies. The question whether this part of the order of the Sales Tax Officer was valid or invalid did not depend upon the validity of any particular rule. The rule only requires that form C should be filed along with the return but the petitioner did not have any C forms at all qua sales worth Rs. 13,119.11. The question that he could prove that the sales were to registered dealers by other evidence to claim the exemption is not a question which relates to the validity of any particular rule. We therefore, leave the petitioner to the ordinary remedies available under the statute.

3. In the result, the petition fails and is accordingly dismissed but without any orders as to costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com