

Commissioner, Trade Tax Vs. Indian Communication Network Ltd.

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Court : Allahabad

Decided On : Apr-08-1997

Reported in : [2003]133STC20(All)

Judge : M.C. Agarwal, J.

Acts : [Uttar Pradesh Trade Tax Act, 1948](#) - Sections 3E, 8(1) and 22

Appeal No. : Trade Tax Revisions Nos. 204 and 205 of 1995

Appellant : Commissioner, Trade Tax

Respondent : Indian Communication Network Ltd.

Advocate for Pet/Ap. : U.K. Pandey, Standing Counsel

Disposition : Petition dismissed

Judgement :

M.C. Agarwal, J.

1. These two revision petitions by the Commissioner of Trade Tax under Section 11 of the U.P. Trade Tax Act, 1948 (hereinafter referred to as 'the Act') are directed against a common order dated November 17, 1994, passed by the Trade Tax Tribunal, Ghaziabad, whereby it held that no interest was payable on the demand of additional tax through an order under Section 22 of the Act. The matter relates to assessment years 1989-90 and 1988-89.

2. I have heard Sri U.K. Pandey, learned Standing Counsel for the revisionist.

3. The dealer-respondent's assessments were framed under the Central Sales Tax Act, 1956. Thereafter by orders under Section 22 of the Act the assessment was rectified and additional tax in terms of Section 3-E of the Act read with the concerned provisions of the Central Sales Tax Act was levied raising the rate of tax from 12 to 13.2 per cent. On the additional tax thus levied the assessing officer charged interest under Section 8(1) of the Act. The dealer's first appeals were dismissed. On second appeal (Nos. 449 and 450 of 1994) the Tribunal took the view that since there was a bona fide dispute about the levy of the additional tax no interest under Section 8(1) can be charged.

4. Admittedly the liability for additional tax was not admitted at any stage of the proceedings. Initially even the assessing officer did not think that any additional tax was leviable. It was subsequently that he thought of the same and initiated proceedings under Section 22 of the Act for the rectification of the assessment and levied the tax. Under Section 8(1) of the Act interest is payable only on the tax that was admittedly payable by the dealer. The amount of additional tax levied through orders under Section 22 of the Act was not tax admittedly payable and, therefore, the Tribunal was right in holding that no interest can be charged in respect of these amounts. The Tribunal's orders are thus in accordance with law and these revision petitions

have no merit. They are accordingly dismissed.

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