

Prahlad Rai and Others

Vs

Sales Tax Officer, Meerut and Others

Civil Appeal No. 671(NT) of 1976

(Kuldip Singh, K. Ramaswamy JJ)

04.12.1990

JUDGMENT

1. The appellants were served with two notices by the Sales Tax Officer, Hapur for the recovery of Rupees 34,796.44 and Rupees 12,850/- on account of interest on arrears of sales tax. Two business firms owned by the ancestors of the appellants fell into arrears in respect of sales tax for the years 1952-53 to 1962-63. The appellants, having inherited the properties of the ancestors, were asked to pay the arrears of sales tax. It is the admitted position that the appellants had paid the said arrears. The above mentioned notices were only in respect of the interest on the amount of arrears so paid. The appellants challenged the notices by way of a writ petition before the High Court. The High Court dismissed the writ petition. This appeal via special leave petition is against the judgment of the High Court.

2. The U. P. Sales Tax Act, 1948 was amended and sub-sec. (I-A) was added to S. 8 of the Act. The amendment was introduced by the U.P. Sales Tax (Second Amendment) Act, 1963 which was enforced with effect from January 25, 1964. Sub-sec. (I-A) is as under :-

"(I-A) If the tax payable under sub-sec.(1)1 remains unpaid for six months after the expiry of the time specified in the notice of assessment and demand or the commencement of the U.P. Bikrikar (Dwitiya Sanshodhan) Adhiniyam, 1963, whichever is later, then, without prejudice to any other liability of penalty which the defaulter may, in consequence of such non-payment incur under this Act, simple interest at the rate of eighteen per cent per annum shall run on the amount then remaining due from the date of expiry of the time specified in the said notice or from the commencement of the said Adhinivam, as the case may be, and shall be added to the amount of tax and be deemed for all purposes to be part of 'the tax.'"

3. The appellants contended before the High Court that above quoted S. 8(IA) having been enforced with effect from January 25, 1964 the arrears of sales tax which became due as a result of assessment made prior to the said date cannot come within the mischief of the said sub-section. The High Court rejected the contention in the following words:

"Now, S. 8(1 -A), no doubt, was added to the U.P. Sales Tax Act with effect from 25th of January, 1964, but it provides that if any amount on account of sales tax is in arrears for a period of six months from the date of the service of the notice of demand, or from the commencement of the provision, it shall carry interest at the rate

of 18%. Admittedly, the sales tax was in arrears against the petitioners when S. 8(1 - A) came into force and it remained unpaid after the expiry of six months from 25th of January, 1964, when the provision came into force. Interest, therefore, started automatically running on the arrears irrespective of the years to which they related. There is thus no force in this contention."

4. We see no infirmity with the reasoning of the High Court and agree with the same.

5. The second point raised before the High Court was that notices of demand in respect of the sales tax were not served upon the petitioners and as such they did not become defaulters and were not liable to pay interest. The appellants had admittedly paid up the entire arrears sales tax voluntarily. The accrual of interest is automatic and no separate notice of demand was required to be served in that respect. It is clear from Section 8(1-A) that the interest becomes payable if the arrears of sales tax remain unpaid for a period of 6 months after the commencement of Amending act. It is not disputed that the arrears of sales tax were paid by the appellants six months after the amending Act. Apart from that the High Court relied upon the judgment of this Court in *M/ s. Haj' Lal Mohd. Birji Works v. State of U. P. (1973 UPTC 690)* and rejected the contention. We see no reason to differ with the reasoning and the conclusions of the High Court.

6. During the pendency of the appeal in ' this Court interim stay was operating against the respondents. We allow six months time to the appellants to make payment and we direct that no coercive steps should be taken against the appellants for the recovery of arrears of interest during the said period of six months.

7. With the above observations, the appeal is dismissed with no order as to costs.

Appeal dismissed.

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