

SUPREME COURT OF INDIA

Assistant Commissioner (Judicial), Sales Tax

Vs.

Kheria Brothers

(A Anand, K Thomas and M Srinivasan JJ.)

25.08.1998

ORDER

1. Leave granted.

2. The writ petitions of the respondents were allowed by a learned single Judge of the Allahabad High Court on the premise that relief was due to the petitioners on the basis of the judgment reported as State of U.P. v. Annapurna Biscuit Manufacturing Co. . It transpires that the case of Annapurna Biscuit Manufacturing Co. [1973] 32 STC 1 was based upon earlier decisions of this Court in R. Abdul Quader and Co. Sales Tax Officer, Hyderabad and Ashoka Marketing Ltd. v. State of Bihar .

3. While so, in R.S. Joshi, Sales Tax Officer v. Ajit Mills Limited , a Seven-Judge Bench of this Court overruled Ashoka Marketing Limited's case . The consequent result of such overruling was that Annapurna Biscuit Manufacturing Co. decision got pro tanto overruled. Later in Kasturi Lal Harlal v. State of U.P. , the overruling of Ashoka Marketing's case has specifically be noticed but somehow there is no advertence to Annapurna Biscuit Manufacturing Co.'s case . This incidence by itself can by no means be allowed to gather the impression that Annapurna Biscuit Manufacturing Co. 's case was still surviving. That case, as said before stands pro tanto overruled. It could not have been the basis to grant relief to the respondents by the High Court.

4. We, therefore, allow these appeals, set aside the impugned orders of the High Court remitting the cases back to it for rehearing of the writ petitions on points other than those which were based on Annapurna Biscuit Manufacturing Co.'s case . Ordered accordingly. No costs.