

A COMMISSIONER, SALES TAX, U.P., LUCKNOW

v.

M/S. GIRJA SHANKER AWANISH KUMAR

SEPTEMBER 9, 1996

B [S.P. BHARUCHA AND K.S. PARIPOORNAN, JJ.]

C *U.P. Sales Tax Act, 1948—Section 12(2)—Assessment of turnover where stock register not maintained—Held, non-maintenance of stock not only technical defect—Where stock books not maintained, account books not reliable—Turnover, therefore, to be determined on best judgment of assessing authority.*

D For the Assessment Year 1974-75, the respondent-assessee returned a total turnover of Rs. 1,74,948 which was enhanced to Rs. 10 lakhs by the Sales Tax Officer, and reduced to Rs. 5 lakhs in appeal. In further revision, the account books of the assessee along with the disclosed turnover were accepted. In revision, a Single Judge of the High Court noticed that the assessee was a manufacturer but did not maintain any stock books as contemplated by Section 12(2) of the U.P. Sales Tax Act 1948 and so the account books were liable to be rejected. But it held that this defect being 'technical', the turnover disclosed in the account books should be accepted and the turnover need not be determined afresh.

E The Revenue appealed against the High Court's Order.

Allowing the appeal, this Court

F HELD : 1. Non-maintenance of stock register is not only a technical defect. Section 12(2) of the U.P. Sales Tax Act mandates the dealer to maintain stock books in respect of raw materials and of products obtained at every stage of production. If such a stock book is not maintained, the account books are not reliable. If the account books are rejected, the turnover has to be determined according to the best judgment of the assessing authority. [642-B-D]

G 2. The estimated turnover of the dealer, as upheld in appeal, stands restored. [642-E]

H CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4084 of 1982.

From the Judgment and Order dated 7.5.81 of the Allahabad High Court in S.I.R. No. 615 of 1980. A

R.C. Verma and R.B. Misra for the Appellant.

S.S. Khandula for the Respondent. B

The Judgment of the Court was delivered by

PARIPOORNAN, J. The Commissioner of Sales Tax, Uttar Pradesh, Lucknow, has filed this appeal after obtaining special leave by order of this Court (order dated 10.12.1982). The appeal is filed against the judgment of the learned single Judge of Allahabad High Court rendered in S.T.R. No. 61530 dated 7.5.1981. The respondent-assessee carried on business in silver ornaments, utensils and scraps. For the Assessment Year 1974-75 he returned a total turnover of Rs. 1,74,948 which was enhanced to Rs. 10 lakhs by the Sales Tax Officer, but reduced to Rs. 5 lakhs in appeal by A.G. (J.). In further Revision, the account books of the assessee along with the disclosed turnover were accepted. The said order was assailed by the Revenue before the Allahabad High Court in Sales Tax Revision No. 615/80. The learned single Judge held that the account books of the assessee were liable to be rejected. But, he took the view that the defect aforesaid being "technical" in nature, the turnover disclosed in the account books should be accepted, and there was no need to determine the turnover afresh. Aggrieved by the aforesaid decision the Revenue has come up in appeal. C D E

2. We heard counsel. Admittedly, the shop of the assessee was inspected on 22.2.1975. Cash amounting to Rs. 3,000 and certain slips were found. There was also variance in the stock at the time of survey. The Additional Judge (Revision) directed the acceptance of the account books of the assessee, since according to him the rejection of accounts was based on suspicion. F

3. The learned Judge of the High Court noticed that the assessee is a manufacturer and did not maintain any book as contemplated by Section 12(2) of the Uttar Pradesh Sales Tax Act, 1948 (hereinafter referred to as '(the Act') and so the account books were liable to be rejected. Even so, he took the view that the defect being technical in nature, the turnover disclosed in the account books should be accepted and that the turnover G H

A need not be determined afresh. We are of the view that the approach made by the learned Judge of the High Court is patently erroneous.

4. The keeping of a stock register, especially in the case of a manufacturer, is of great importance. It is a means of verifying the assessee's accounts by having a quantitative tally. Section 12(2) of the Act mandates
B the dealer to maintain stock books in respect of raw materials as well as product obtained at every stage of production. If such a stock book is not maintained, it leads to the conclusion that the account books are not reliable or that particulars are not properly verifiable. If the account books are rejected, the turnover has to be determined to the best of judgment of
C the assessing authority concerned. We are unable to uphold the view that a defect in non-maintenance of stock register is only technical and so the turnover disclosed in the account books should be accepted. On the facts of a particular case, it is for the assessing authority to consider along with other materials disclosed in the case, to what extent the account books can be relied on for determining the turnover. In normal circumstances, the
D rejection of account books call for the estimation of the turnover to the best of judgment of the assessing authority. Having upheld that the account books of the assessee were liable to be rejected, the learned Judge of the High Court was wrong in holding that the defect is of a technical nature and the account books should be accepted. We set aside the decision of
E the High court and direct that the estimated turnover of the dealer as upheld in appeal, shall stand restored. The appeal is allowed. However, in the facts and circumstances of the case, there shall be no order as to costs.

U.R.

Appeal allowed.