

GIB/WB/GOVIND SARAN/26-04-1985/SC-3**Supreme Court Category :** INTEREST**State :** West Bengal**Order No.:** GIB/WB/GOVIND SARAN/26-04-1985/SC-3**Name of Entry :**
GOVIND SARAN GANGA SARAN**Date :** 26-04-1985**Breif Issue :****Fact & Issues Involved :**

The appellant, used to purchase Cotton yarn and sell it to registered dealers, unregistered dealers and consumers. He submitted his return of turnover under the State Act for the assessment year 1968-69 and claimed exemption in respect of the turnover of sales of cotton thread on the ground that it was an exempted item under Entry 21 of the Second Schedule.

The Sales Tax Officer held that the sales were liable to tax as the same were affected in respect of cotton yarn. The appellant ultimately went in revision to the Financial Commissioner who proceeding on the basis that the sales were in respect of cotton yarn, which was a declared item under s.14 of the Central Sales Tax Act allowed the revision petition holding that they could not be subjected to sales tax because one of the conditions prescribed by s.15 of that Act had not been complied with, that is to say, the law had omitted to prescribe the single point at which the levy could alone be imposed.

Aggrieved by the order of the Financial Commissioner, the Revenue filed a writ petition in the High Court which, relying on the construction placed by it on sub-clause (ii) of cl.(a) of s.5 in *Fitwell Engineers Financial Commissioner Delhi Admn* (1975) 35 S.T.C. 66, allowed the petition holding that the single point in a series of sales is the sale made by the last registered dealer among successive dealers when he sold the goods to an unauthorized dealer or consumer.

Decision of Advance Ruling Authority :**Decision:**

These components are not clearly and definitely ascertainable it is difficult to say that the levy exists in point of law. Any uncertainty or vagueness in the legislative scheme defining any of those components of the levy will be fatal to its validity.

The Court which could relate to the assessment year under consideration. There- fore a vital prerequisite of s. 15 of the Central Sales Tax Act, namely, that the tax shall not be levied at more than one stage, has not been satisfied in respect of the turnover of cotton yarn, and accordingly the assessment complained of is liable to be quashed

The judgement and order of the High court of Delhi are set aside and the assessment of the turnover of cotton yarn is dismissed. The appellant is entitled to its cost