
(1976) 03 SC CK 0025

In the Supreme Court Of India

Case No : Civil Appeal No's. 630-631 of 1971

Annapurna Carbon Industries Co.

APPELLANT

Vs

State of Andhra Pradesh

RESPONDENT

Date of Decision : 09-03-1976

Acts Referred:

Citation : AIR 1976 SC 1418 : (1976) 2 AnWR 19 : (1976) 2 SCC 273 : (1976) 3 SCR 561 : (1976) 37 STC 378 : (1976) 8 UJ 314

Hon'ble Judges : A. N. Ray, C.J.; M. Hameedullah Beg, J.; Jaswant Singh, J

Bench : Full Bench

Advocate : V.S. Desai, Mrs. Vimla Markandeyulu, G.N. Rao, for the Appellant; P.Ram Reddy, Public Prosecutor Rao, for the Respondent

Final Decision : Dismissed

Judgement

M.H. Beg, J.—The short question before us in these appeals by special leave, is whether sales of Arc Carbons, known as "Cinema Arc Carbons", manufactured by the appellant company, were rightly subjected to sales' tax for two assessment years 1965-66 and 1966-67 on the ground that they fall under entry No. 4 of the 1st Schedule of the Andhra Pradesh General Sales Tax Act, 1957, (hereinafter referred to as ('the Act')). This entry reads as follows:

Cinematographic equipment, including cameras, projectors, and sound recording and reproducing equipment lenses, films and parts and accessories required for use therewith.

2. As indicated above, the very name of the Arc Carbons, as commercial commodities, seems to attach the word "Cinema" to them because of the use to which they are generally put. The High Court referred to the fact that the appellants had not produced their account books to show that they had been purchased by persons other than those who ran cinema or for any other use. Of course, it is very difficult to identify a taxable commodity merely by the use to which it may be put. Nevertheless, it appears that the entry under consideration

links the taxable object with its general or ordinary use. The taxing authorities were therefore, compelled to consider the use which is generally made of the arc carbons. They had concluded that the common or ordinary use of the arc carbons was that they excluded the powerful light cast, through the projection, on cinema screens.

3. It was pointed out that the Sales Tax Appellate Tribunal, the final departmental authority under the Act, had allowed an application for adducing expert evidence to determine the question whether arc carbons manufactured by the appellant company be covered by the entry under consideration, it however, appears that, before further evidence could be taken, at the appellate stage, on the subject, a decision of the Andhra Pradesh High Court in the State of Andhra Pradesh v. Srimathi Nidmarthi Saraswathi Devi (1), was brought to the notice of the Tribunal. There, the High Court had held that such arc carbons are covered by the 4th entry in the 1st Schedule of the Act, Hence, the Tribunal dismissed the appeal without taking further evidence.

4. In the High Court, two decisions cited on behalf of the appellants were : Deputy Commissioner of Commercial Taxes. Madhurai Division, Madhurai v. Ravi Auto Stores (2). and State of Madras v. Indian Oxygen Ltd. (3) The High Court pointed out that in both these cases what was decided was whether "welding electrodes", considered by themselves, were "electrical good" falling within entry 41 of Schedule 1 of the Madras General Sales' Tax Act. It was held, in these cases, that they were only copper rods which were melted by electrical power in the process of welding. Neither the use of the term "electrode" to describe them, suggesting a connection with electricity, nor their utilisation in a process involving application of electrical power could convert them into 'electrical Goods' as contemplated by the entry in the Madras Act. The High Court rightly observed that these decisions had no bearing whatsoever upon the very different entry in a Schedule of an entirely different Act of a different State.

5. The same question has been argued before us with the help of some more cases to which the same criticism. The additional cases cited before us were : Pashabhai Patel and Co (P). Ltd. v. Collector of Sales Tax, Maharashtra State (4) where it was held a "tractor" is not "agricultural machinery", within the meaning of entry 9 in Schedule B of the Bombay Sales' Tax Act, 1952 : Agrawal Brothers v. Commissioner of Sales Tax, Madhya Pradesh : (5) where it was also held that a "tractor" which is "nothing but a self propelled vehicle capable of pulling a load", or "tractor" does not acquire the character of "agricultural machinery or implement" merely because when used on agricultural land it is used also to draw certain agricultural implements like a plough : The State of Mysore v. Kores (India) Ltd. (6), where it was held that a typewriter ribbon is not in essential part of a typewriter so as to attract the tax under entry 18 of the second schedule to the Mysore Sales' Tax, Act, 1957, Commissioner, Sales Tax, U.P. v. Free India Cycle Industries (7), where it was held that refine saddle covers used also for bicycle seats are' not covered by entry No. 34 introduced by Section 3A of the

U.P. Sales Tax Act, 1948, as modified subsequently, which read: "bicycles, tricycles, cycle rickshaws and perambulators and accessories thereof other than tyres and tubes"; the Madhya Pradesh State Co-operative Marketing Society, Jabalpur v. The Commissioner of Sales Tax, M.P. Indore (8), where held that "oil-engines and pumps", which are not known in the commercial world as "agricultural machinery" could not be covered by an entry meant for goods sold for agricultural purposes simply because: some of them are also sold to agriculturist for agricultural purposes.

6. We do not think that any useful purpose is served by multiplying cases relating to entries which are so very different and could have only a very remote bearing, if any, upon any reasoning which could be adopted to support the submission that the arc carbons, under consideration here, fall within the relevant entry 4 of Schedule I of the Act. The meaning of this entry can only be satisfactorily determined in the light of the language of the entry itself considered in the context in which it occurs.

7. The entry No. 4 occurs in a schedule in which descriptions of goods to be taxed indicate that the expression "required for use therewith" has been employed for equipment or accessories with the main purpose. For instance, in entry No. 5 the expression occurs at the end as follows:

Photographic and other cameras and enlargers, films and plates, paper and cloth and other parts and accessories required for use therewith.

Apparently, the deciding factor is the predominant or ordinary purpose or use. It is not enough to show that the article can be put to other uses also. It is its general or predominant user which seems to determine the category in which an article will fall.

8. The first entry in the schedule relates to "motor vehicles" and includes "competent parts of motor vehicles" and "articles (including batteries) adapted for use as parts and accessories of motor vehicles", but excludes certain other articles by putting in the words "not being such articles as are ordinarily also used for other purposes than as parts and accessories of motor vehicles", Entry No. 2, relating to refrigerators, air conditioning plants covers also "component parts thereof". Again, entry No. 3, for "wireless reception instruments and apparatus" includes "electrical valves, accumulators, amplifiers and loud speakers and spare parts and accessories thereof". The words "parts thereof" are used in several entries, such as entry No. 6 for clocks, time-pieces and watches, entry No. 10 for Dictaphones and other similar apparatus for recording sound, and entry No. 11 for sound transmitting equipment much as telephones and loudspeakers.

9. Our object in indicating the nature of entries, amidst which entry No. 4 occurs, is to show that some precision has been attempted in making the entries. When it was intended to confine the entry to particular gadgets and "parts thereof" the entry said so. Of course, even where an entry relates to parts manufactured for

use for a particular kind of instrument or gadget only, the article, manufactured to serve as a part of a particular kind of apparatus, would not cease to be covered by the intended entry simply because a purchaser makes some other use of it. We have to find the intention of the framers of the Schedule in making the entry in each case. The best guide to their intention! is the language actually employed by them.

10. We find that the term "accessories." is used in the schedule to describe goods which may have been manufactured for use as an aid or addition. A sense in which the words accessory is used given in Webster's Third New International Dictionary as follows : "an object or device that is not essential in itself but that adds to the beauty, convenience, or effectiveness of some-thing else". Other meanings given there are : "supplementary or secondary to something of greater or primary importance" : "additional" : "any of several mechanical devices that assist in operating or controlling the tone resources of an organ". "accessories" are not necessarily confined to particular machines for which they may serve as aids. The same item may be an accessory or more than one kind of instrument.

11. It will be noticed that the entry we have to interpret includes "parts" as well as "accessories" which are required for use in projectors or other cinematographic equipment. We think that the Andhra Pradesh High Court correctly held that the main use of the arc carbons Under consideration was duly proved to be that of production of powerful light used in projectors in cinemas. The fact that they can also be used for search lights, signalling, stage lighting, or where powerful lighting for photography or other purposes may be required, could not detract from the classification to which the carbon arcs belong. That is determined by their ordinary or commonly known purpose or user. This, as already observed by us, is evident from the fact that they are known as cinema arc carbons" in the market. This finding was enough, in our opinion, to justify the view taken by the Andhra Pradesh High Court that the goods under consideration are covered by the relevant entry No. 4.

12. Consequently, we dismiss these appeals with costs.