(1993) 02 AP CK 0016

In the Andhra Pradesh High Court

Case No : T.R.C. No''s. 2 and 3 of 1986

B. Kishanlal Khandasari Sugar Mills — APPELLANT

Vs

State of Andhra Pradesh — RESPONDENT

Date of Decision : 25-02-1993

Acts Referred:

Citation : (1993) 90 STC 257

Hon'ble Judges : S.B. Majmudar, J;J. Eswara Prasad, J

Bench : Division Bench

Advocate : K. Raji Reddy, for S. Dasaratharama Reddi and A.V.S. Ramakrishnaiah, for the Appellant; Government Pleader for Commercial Taxes, for the Respondent

Judgement

J. Eswara Prasad, J.—Both these revision cases raise for consideration a common question, whether muddagur is liable to be taxed under entry 1, Schedule V of the Andhra Pradesh General Sales Tax Act, 1957, at 0.07 paise as jaggery, or is liable to tax under entry 55, Schedule I of the said Act at 25 per cent as molasses.

2. In T.R.C. No. 3 of 1986 the assessing authority found that the sales of muddagur is liable to be taxed as molasses. In appeal, the Assistant Commissioner reversed the said order and held that it is liable to be taxed as jaggery. The Deputy Commissioner, Commercial Taxes, took up the matter suo motu in revision and held that muddagur is liable to be taxed as molasses. This was confirmed by the Tribunal giving rise to the revision case. In T.R.C. No. 2 of 1986 the assessing authority, the appellate authority, as well as the revisional authority took the view that the product muddagur, is liable to be taxed as molasses. The appeal before the Tribunal was rejected upholding the conclusion reached by the lower authorities giving rise to the revision case.

3. Petitioners in both the revisions are manufacturers of khandasari sugar by crushing sugarcane. After the sugar juice is derived, it is boiled by way of open pan process and the liquid called rab is derived, from which, what is called,

crushed sugar is derived. The resultant fluid is treated as first sugar. At this stage, second sugar is derived. The khandasari sugar after deriving second sugar is heated for a long time and is mixed with sanjeera powder which resulted in the yield of lump jaggery. According to the petitioners, the lump jaggery is different from molasses and that it is liable to be treated as jaggery for the purpose of taxation.

4. The Deputy Commissioner in Appeal No. C/44/81-82 elaborately considered the process by which molasses is converted into muddagur. He held that the liquid molasses is treated with sanjeera, water is removed and is converted into muddagur, which is nothing but molasses in a solid form. This reasoning was upheld by the Tribunal.

5. A Division Bench of this Court, in T.R.C. No. 18 of 1980 (unreported), by its judgment dated December 17, 1982, considered an identical question and held that muddagur is nothing but molasses in a solid form. The contention that it is jaggery and is liable to be taxed under entry 1, Schedule V was rejected.

6. Learned counsel for the petitioners tried to canvass that the decision in T.R.C. No. 18 of 1980 requires reconsideration on the ground that the matter was not fully argued before the Division Bench. We do not find any new ground raised now, meriting reconsideration of the decision of the earlier Division Bench. Moreover, the decision of the Division Bench in T.R.C. No. 18 of 1980 has been the law from the year 1982 and has been followed by the Sales Tax Appellate Tribunals for over one decade and on the principle of stare decisis, we do not consider that the matter requires reconsideration.

7. Learned counsel for the petitioners further submitted that the reliance placed by the Division Bench in T.R.C. No. 18 of 1980 on Tungabhadra Industries Ltd. Vs. The Commercial Tax Officer, Kurnool, was not correct, inasmuch as, that was a matter in which the court was considering the conversion of groundnut oil into hydrogenated oil, and held that both the products serve the same purpose, whereas in the present case, liquid molasses and muddagur are not of the same nature and do not serve the same purpose. We are unable to agree with the said contention for the reason that muddagur which is in a solid form is also, found to be fit for being used for the purpose of making alcohol and also as cattle fodder and is not fit for human consumption and cannot be treated as jaggery.

8. For the aforesaid reasons, we do not find any merit in these two revision cases and they are accordingly dismissed. No costs.

9. Petitions dismissed.

