(1976) 09 AP CK 0008

In the Andhra Pradesh High Court

Case No : T.R.C. No''s. 20, 22 and 37 of 1976

Choudhry Bros. APPELLANT

Vs

State of A.P. RESPONDENT

Date of Decision : 06-09-1976

Acts Referred:
Andhra Pradesh General Sales Tax Act, 1957 — Section 20(2)

Citation : (1979) 43 STC 480

Hon'ble Judges : B.J. Divan, C.J;Raghuvir, J

Bench : Division Bench

Advocate : B.C. Jain, for the Appellant; The Government Pleader for Commercial Taxes, for the Respondent

Final Decision : Dismissed

Judgement

Raghuvir, J.—These three tax revision cases raise common questions of law under the A. P. General Sales Tax Act (Act 6 of 1957). They arose in the following circumstances:

2. The assessee in all the revisions is M/s. Choudhry Bros. In the assessment year 1969-70 the disputed turnover is Rs. 83,912.30, for the assessment year 1970-71 the disputed turnover is Rs. 1,53,626.39, and for the assessment year 1971-72 the turnover is Rs. 2,23,410. These turnovers relate to the sales of "fare meters". The Deputy Commissioner of Commercial Taxes, Hyderabad, in exercise of his power u/s 20(2) of the Act revised the rate of tax from 3 per cent to 10 per cent, holding that "fare meters" fall under the expression of "accessories of auto-rickshaws". The order of the Deputy Commissioner was unsucessfully challenged by the assessee before the Sales Tax Appellate Tribunal in three appeals. The two appeals, T. A. Nos. 197 and 288 of 1975, were dismissed on 26th September, 1975, and T. A. No. 289 of 1975 was dismissed on 29th October, 1975. The Appellate Tribunal agreed with the view of the Deputy Commissioner that fare meters are accessories of auto-rickshaws.

3. The question at issue is the same which was debated before those authorities. Whether fare meters fall under entry 1 of Schedule I of the A. P. G. S. T. Act (6 of 1957) and whether fare meters are accessories of motor vehicles ? Entry 1 describes the goods as under :

Motor vehicles including motor cars, motor taxi cabs, motor cycles, motor scooters, motorettes, motor omnibuses, motor vans and motor lorries, chassis of motor vehicles, bodies built on chassis of motor vehicles belonging to others (on the turnover relating to bodies), component parts of motor vehicles, articles (including batteries) adapted for use as parts and accessories of motor vehicles not being such articles as are ordinarily also used for other purposes than as parts and accessories of motor vehicles.

4. The term "accessories" occurring in item 4 of the Act came to be considered by the Supreme Court in the case of Annapurna Carbon Industries Co. Vs. State of Andhra Pradesh, Beg, J., held the meaning of the term as under :

10. We find that the term ''accessories'' (of the A. P. Act 6 of 1957) 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 word ''accessory'' is used is 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 something 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 of more than one kind of instrument.

5. Having regard to the definition, we may now look at the use for which the fare meters are used. The main use of the fare meters is to equip the motor vehicles and auto-rickshaws which are used for hire. The meter denotes the fare and beyond this, they serve no other purpose. For running an ordinary motor vehicle, fare meters may not be necessary, but fare meters are the necessary components of motor vehicles which are used for hire.

6. The learned counsel for the assessee urged that, as a component, fare meters are not necessary for running motor vehicles and contended, fare meters fall within the general rate of 3 per cent and fare meters should not be held as accessories of motor vehicles.

7. We cannot agree with this contention of the learned counsel. The predominant or ordinary "use" if not the only purpose for which fare meters are used is as accessories for motor vehicles which are run for hire. That, in our opinion, is the determining factor. In Annapurna Carbon Industries Co. Vs. State of Andhra Pradesh, entries 1, 2, 3, 6 and 10 are referred while interpreting the word "accessories". The Supreme Court further observed:

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 intentions is the language actually employed by them.

8. Having regard to the intention of the framers of entry No. 1 and in view of the discussion above, we hold fare meters are the accessories of the motors and auto-rickshaws. The tax revision cases therefore merit dismissal and, accordingly, they are dismissed with costs. Advocate''s fee Rs. 250 in each.

