
(2010) 12 AP CK 0012

In the Andhra Pradesh High Court

Case No : Tax Revision Case No. 237 of 2010

Coastal Andhra Power Limited

APPELLANT

Vs

State of Andhra Pradesh

RESPONDENT

Date of Decision : 22-12-2010

Acts Referred:

Andhra Pradesh Value Added Tax Act, 2005 — Section 15(2), 34(1), 8, 8(1), 8(3)
Central Sales Tax (Registration and Turnover) Rules, 1957 — Rule 13

Citation : (2010) 12 AP CK 0012

Hon'ble Judges : V.V.S. Rao, J;Ramesh Ranganathan, J

Bench : Division Bench

Advocate : S. Ganesh, for K.K. Durga Prasad, for the Appellant; A.V. Krishna Kaundinya, Special S.C. for C.T., for the Respondent

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, J.—This revision, u/s 34(1) of the A.P. VAT Act, is preferred against the order of the Sales Tax Appellate Tribunal (hereinafter referred to as "STAT") in T.A. No. 344 of 2009 dated 25.3.2010 whereby the order of the Appellate Deputy Commissioner (CT), Guntur, in Appeal No. 103/08-09/NNLR, dated 28.6.2009, was confirmed.

2. The Petitioner registered itself as a dealer, under the Central Sales Tax Act, 1956 (hereinafter called the "Act"), from 1.4.2008 as they intended to develop, distribute and sell electricity along with scrap material. It is in the process of setting up an ultra mega power project at Krishnapatnam in Nellore District. The project involves evolving, designing, developing, constructing and operating a power plant, and allied buildings and support structures to generate, transmit and distribute electricity. The Petitioners are also registered under the A.P. VAT Act. They were issued a certificate u/s 8(3)(b) of the Act, read with Rule 13 of the CST (Registration and Turnover) Rules, 1957 (hereinafter called the Rules). In their application seeking registration, the Petitioner sought inclusion of various items including goods, machinery equipment, building material etc, which they

claimed were integrally connected with the generation and distribution of electricity. The Commercial Tax Officer issued show cause notice dated 1.12.2008 proposing to delete several items, registration of which was sought for by the Petitioner, on the ground that these items were used for construction of buildings and other uses; they were not directly related to power generation; and did not fall within the ambit of Section 8 of the Act. The Petitioner submitted its detailed reply thereto on 20.12.2008 explaining the entire process of developing and establishing a power plant for generation, transmission and distribution of electricity. They sought inclusion of goods, for construction of the labour colony, the administrative building, and the boundary wall, as being required to control the operations and maintenance of the power station, and as being an inseparable part of the power plant/project being established by them. The Commercial Tax Officer, by his order dated 31.1.2009, disallowed certain items. Aggrieved thereby, the Petitioner preferred an appeal to the Appellate Deputy Commissioner who, in his order dated 28.06.2009, held that the Petitioner was not entitled to utilize the goods, purchased on the strength of C-Forms, for construction of the guest house, employees quarters, office building etc., which did not form an integral part of generation and distribution of electricity. The registration authority was directed to examine the issues involved in the light of the adjudications of the Supreme Court in *Commercial Taxes Officer, Circle-D, Jaipur v. Rajasthan Electricity Board, Jaipur* (1997) 104 STC 89; *M/s J and K Cotton & Spinning Weaving Mills Co. Ltd v. The sales tax Officer* (1965) 16 STC 563; and the Orissa High Court in *Orissa Power Generation Corporation v. Commissioner, Commercial Taxes* (2008) 15 VST 587, and ensure desirability of inclusion of the goods in the registration certificate under the Act, duly complying with the observations made in the order. Aggrieved thereby, the Petitioner carried the matter in appeal to the STAT which, however, dismissed the appeal confirming the order of the Appellate Deputy Commissioner.

3. In its order, in T.A. No. 344 of 2009 dated 25.03.2010, the STAT held that, on the principle that the plant should run uninterruptedly, there was no need to have the labour colony near the plant; such a requirement was not integrally connected with the activity of the plant; it was not commercially inexpedient to run the plant without a labour colony near the plant; the labour colony could not be treated as a part of the power plant, much less an integral part; and it could not be said that construction and maintenance of the labour colony were allied facilities integrally connected with the power plant for generation and distribution of power. With regards the requirement of an office building, the STAT held that the Petitioner did not state as to what activities would take place in the said office building; it was also not stated whether there was a separate administrative building constructed or under contemplation, and what were the activities that may take place therein, if any; the office building did not constitute a part of the apparatus to be employed for carrying on activities integrally connected with the generation and distribution of power; the office building, which was not an integral part of the power plant and power house building,

could not be said to be integrally connected with the construction of a power plant for generation and distribution of power; and, for the same reason, the request as regards the requirement of goods for building a compound wall could not be considered. The STAT further held that there was no material placed by the Petitioner, in the records before it, like approved plans, if any, for the labour colony, office building and compound wall; there was no mention of the area, the plinth area and the number of houses in the proposed colony; the number of rooms in the houses and the office building; the rough/approximate estimate of costs, including cost of the goods; and, under the guise of statutory requirement, the Petitioner could not make an all-inclusive/wide spread request without giving even the bare minimum particulars before seeking inclusion of these goods in the certificate of registration. The STAT held that the proposed construction did not come under the expression "construction of power plant and associated structures" in connection with the generation and distribution of power; these goods could not be said to be permissible as they could not be said to be intended to be used for the purpose of generation and distribution of electricity; what was used in the generation and distribution of electricity, or intended for such use, only fell within the scope of Section 8(3)(b) of the Act read with Rule 13 of the Rules; the goods required for building the labour colony, the office building and the compound wall did not qualify to fall within the description "goods" under the said provision; the Petitioners had failed to establish that the facilities in question were directly related to the actual activities of generation and distribution of power; they could not establish that these facilities would be commercially expedient for them to generate and distribute electricity, and that the facilities in question were integrally connected with the operation, running and maintenance of the power plant to generate and distribute electricity; the Petitioners had failed to satisfy that the request qualified for consideration on the application of the tests; and the request, for inclusion of the goods required for the labour colony, office building and compound wall, did not deserve to be allowed in the facts and circumstances of the case. Aggrieved by the order of the STAT, the present revision u/s 34(1) of the A.P. VAT Act.

4. Before this Court Sri S. Ganesh, Learned Senior Counsel appearing on behalf of the Petitioner, would contend that inclusion in the certificate of registration, of goods used for construction of the labour colony, the administrative building, and the compound wall, would enable the Petitioner to claim a concessional rate of tax of 2%; except for these three items, the Commercial Tax Officer and the Appellate Dy. Commissioner had included all other items sought to be included by the Petitioner in the certificate of registration; the cost of materials and goods used for construction of the labour colony was Rs. 340.00 Crores; the cost of material used for construction of the compound wall (outer perimeter security wall) was Rs. 12.00 crores; and the cost of goods used for construction of the office building/administrative office was Rs. 25.00 Crores. According to the Learned Senior Counsel, the aforesaid three works were an inextricable and integral part of the power plant, and were recognized as such by the statutory

provisions relating to the establishment of a power project; the correct legal test to be applied, for inclusion of goods in the certificate of registration, was not physical impossibility to generate power without these structures but whether it was commercially inexpedient to do so; and, in arriving at a conclusion, a broader and benevolent view, and not a restricted view, should be taken as it relates to the provision of incentives. Learned Senior counsel would place reliance on the provisions of the Electricity Act, 2003; certain clauses in the power project agreement; the Electricity (Removal of Difficulties) Order, 2005; the order of the Central Electricity Regulatory Commission dated 25.1.2008; and the report, of the requirement of power stations, submitted by the Committee of experts to the Government of India, Ministry of Power, Central Electricity Authority, New Delhi, in December, 2007. Learned Senior Counsel would fairly state that this material was being placed for the first time before this Court, and was not brought to the notice of the STAT in as much as the Petitioner was not called upon to do so. Learned Senior Counsel would rely on Commercial Taxes Officer, Circle D, Jaipur (1997) 104 STC 89 ; The Rajasthan State Electricity Board Vs. The State of Rajasthan, and Orissa Power Generation Corporation Limited (2008) 15 VST 587 in this regard.

5. On the other hand, Sri A.V. Krishna Koundinya, Learned Special Standing Counsel for Commercial Taxes, would submit that the requirement of compliance with the normative standards required for mega-power projects, the relevant electricity laws, and the regulations framed by the CERC, would not justify the Petitioner's claim for concession u/s 8(3)(b) of the Act read with Rule 13 of the Rules as the goods, which the Petitioner sought inclusion of in their certificate of registration, did not fall within the ambit of "all processes that are directly related to the generation of power". Learned Counsel would submit that, in the absence of adequate material and as the Petitioner claims the benefit of concessional rate of tax, the burden lies heavily on them to establish that they are so entitled; failure on their part, to place the necessary material before the STAT, had rightly resulted in an order being passed holding that they were not entitled to claim inclusion of these goods in the certificate of registration; and it was not incumbent on the STAT to invite the Petitioner to place necessary material before it to justify inclusion of these goods in the certificate of registration. u/s 8(3)(b) of the Act, subject to any rules made by the Central Government in this behalf, goods used in the generation or distribution of electricity is entitled for a concessional rate of tax. Rule 13 of the Rules stipulates that the goods, referred to in Section 8(3)(b) of the Act, which a registered dealer may purchase, shall be the goods intended for use by them as raw materials, processing materials, machinery, plant, equipment, tools, stores, accessories, fuel or lubricants, in the generation or distribution of electricity or any other form of power. The expression "in the generation or distribution of electricity or any other form of power" in Section 8(3)(b) and Rule 13 cannot be read to mean in the business of generation or distribution of electricity or any other form of power. Such goods must be intended for use only in the actual activity of generation or distribution

of electricity. A similar expression "in mining", used in Section 8(3)(b) and Rule 13, fell for consideration in *Indra Singh & Sons (P) Ltd v. Sales Tax Officer* 1966 (17) STC 510, wherein non-inclusion of four items, namely sanitary goods, spare parts for motor vehicles including tyres and tubes, furniture and motor trucks, in the registration certificate was in issue. The Supreme Court held:

...We cannot read the expression "in mining" in Rule 13 of the central Rules to mean in the business of mining. The goods must be intended for use only in the actual activity of mining which would include raising the coal and storing it in heaps or in warehouses. But in our opinion the expression cannot be extended to include delivering the coal to a siding at the railway station. Therefore, the High court was right in holding that these two items, namely, spare parts of motor vehicles including tyres and tubes, and motor trucks cannot be included in the registration certificate of the Appellant.

As far as furniture and sanitary fittings are concerned, these are covered by the ratio of the decision of this Court in the *Indian Copper Corporation* case. In dealing with stationery. Shah, J., observed that " "stationery" also is not intended for use in the manufacture or processing of goods for sale or for mining operations. Use of stationery undoubtedly facilitates the carrying on of a business of manufacturing goods or of processing goods or even mining operation but the expression "intended to be used" cannot be equated with likely to facilitate" the conduct of the business of manufacturing or of processing goods or of mining. "These observations apply to the items "furniture" and "sanitary fittings". These two items are likely to facilitate the business of mining but it cannot be said that they are intended to be used in mining....

(Emphasis supplied)

6. Bearing in mind that the expression "in the generation or distribution of electricity" means intended for use only in the actual activity of generation or distribution of electricity, and not to mean in the business of generation or distribution of electricity, let us now examine whether the goods, which the Petitioner seeks inclusion in their certificate of registration, are required to be included therein or not. The goods in question are those required 1). for the purpose of construction of the labour colony; 2). for the administrative building; and 3). for the boundary wall. It is the Petitioner's case that these goods are required to control the operations and maintenance of the power station, and they are an inseparable part of the power plant/project. In *Orissa Power Generation Corporation Limited* (2008) 15 VST 587; on which reliance is placed by the Learned Senior Counsel, the Petitioner company sought inclusion of the following items in their certificate of registration:

1. Survey and drawing instruments like adulates, levels, levelling stands, chains, measuring chains etc., for taking level for laying the foundation of the Power House Building, and associated structures;
2. Building material like cement, steel, structural steel, chips, sand, doors and

windows, paints, roofing materials, distemper, fencing materials like barbed wires, sati pillars etc., for construction of Power House Building, and other associated Civil Works;

3. H.S. meters, G.I. pipes, street light fittings etc., for construction of Power House, & Central room required for operation and maintenance;

4. Road materials like chips, tars, road rollers, concrete mixer and vibrator, manure, water treatment plants, filtrations plants and associated materials etc., for the purpose of water supply system;

5 (a). I.D. fans, coal mills etc., required for feeding coal to the Boiler to run the Turbine;

5 (b). Hydrogen generation plant for feeding coal to run the Turbine;

5(c). Passenger elevators for operation of the Power House;

5 (d). Generator phase bus duct etc., to evacuate generated power to be incorporated in the switchyard;

5 (e). L.T. transformer power to evacuate generated Power;

5 (f). Cable trays, conduits and other accessories, Unit control board with synbronising bracket, station control board, switchyard control board etc., and

5 (g). Electrical & Phomatic analytical instruments required for operation and maintenance of the Power House i.e., Plant.

7. On the question, whether goods used for construction of the power house building and associated civil works should be included in the certificate of registration, the Division bench of the Orissa High Court observed:

...The Petitioner-Company is a registered dealer, which is seeking to purchase goods for use by it "in the generation of power and distribution of electricity". Therefore, it is imperative to take note of the fact that when the "functional test" is applied to a dealer such as in the case of Petitioner-Company, it has to be ascertained as to whether the goods being purchased by it are integrally related to the generation and distribution of the electricity. Even if theoretically possible, whether it would make it commercially inexpedient for the purpose of generation of power and distribution of electricity. In respect of this issue, it is clearly covered by the decision of the Hon"ble Supreme Court in the case of Commercial Taxes Officer, Circle-D, Jaipur v. Rajasthan Electricity Board (supra).

...It is now necessary to deal with each item sought for inclusion individually.

The Petitioner-Company has sought for inclusion of item No. 1 for the purpose of laying the foundation of the powerhouse building and the associated structure. The very term "powerhouse building" implies that such building would be constructed to house the Thermal Power Generator. The "Power House Building" by its clear meaning refers to a building where Thermal Power Plant will be

installed for power generation. It is inconceivable even to suggest that power generation from a Thermal Power Plant can take place bereft of a Power House Plant. Therefore the findings arrived at by the Commissioner, Commercial Taxes with regard to item at serial No. 1 is erroneous. Applying the "functional test" it would be clear that, it would be clearly practically not possible to consider establishing a Thermal Power Plant without a Power House Building and therefore, the Commissioner is clearly in error of law in coming to hold that a Power House Building is meant to be a place where the business activities were carried on.

So far as item No. 2 is concerned, the same also relates to construction of the Power House Building and associated civil structure and the reasons referred to above, it has to be accepted to constitute an integral part of the plant. Without this construction, it would not be possible on the part of the Petitioner to engage in the generation of electricity and distribution thereof and therefore, findings of the Commissioner without scrutiny of the law as laid down by the Apex Court, is also erroneous.

(Emphasis supplied)

8. In Orissa Power Generation Corporation Limited (2008) 15 VST 587, the Division bench of the Orissa High Court, relied on the judgment of the Supreme Court in Commercial Taxes Officer, Circle D, Jaipur (1997) 104 STC 89, to hold that the term "power house building" implied that such a building was being constructed to house the power generator, or was a building where the thermal power plant should be installed for generation of power; applying the functional test, it would not be possible to establish a thermal power plant without a power house building; and the power house building and associated civil structures constituted an integral part of the thermal power plant.

9. In The Rajasthan State Electricity Board Vs. The State of Rajasthan, on an application being submitted u/s 15(2)(b) of the Act, the Rajasthan High Court directed the Board of Revenue to refer the following two questions for their decision along with the statement of the case:

(1) Whether, on the facts and in the circumstances of the case, the applicant is entitled to purchase the goods, tyres, tubes, raincoats, soaps, etc., against C forms and no case of misuse of C forms is made out against the applicant?

(2) Whether, on the facts and in the circumstances of the case, tyres, tubes, raincoats and soaps, etc., are covered in the list given in the Central registration certificate, exhibit 1, and the applicant has rightly used the C forms for the purchase of the said goods?

10. The Division Bench of the Rajasthan High Court answered the reference holding:

...The Electricity Board, as mentioned earlier, carries on the business not only of manufacturing and generating electrical energy but it also discharges the

function of supply, distribution and transmission of such electrical energy and it is common knowledge that electrical energy is transmitted along insulated copper wires and for the purpose of distribution and transmission and supply of electrical energy to the consumers, the Electricity Board has to construct and maintain transmission lines and equipments, and materials such as cables, pipes, poles, wires and other electrical goods have to be carried to places where the generating sets or power-stations are constructed and to the localities where transmission lines are laid down and, for that purpose, motor vehicles such as trucks, trolleys and trailers and the like are intended to be used. Then their accessories and spare parts including tyres and tubes are also necessary for the same purpose. The business of the Electricity Board being not only of generation or manufacture of electrical energy but also of supply, distribution and transmission thereof and, as such, the principles laid down by their Lordships of the Supreme Court in the Indian Copper Corporation's case are applicable to the facts of these reference cases. The same principles were applied by their Lordships of the Bombay High Court in the Kolkapur Electric Supply Co.'s case [1976 37 S.T.C. 587, while holding that electric meters used for the measurement of electricity were used in the manufacture or processing of goods, namely, electrical energy, without which there could be no supply or sale of electricity to the consumers. In the Madhya Pradesh Electricity Board's case, which is equally applicable to the facts of the present case, their Lordships of the Supreme Court held that the Electricity Board was a "dealer" in respect of its activities of generation, distribution, sale and supply of electrical energy and that electrical energy can be stored and transmitted and, though it may not be moved or touched, yet it has all the attributes of movable property. When the Electricity Board is engaged in the business of distribution and transmission and supply of electrical energy and, for the purposes of sale thereof to the consumers, the laying down of transmission lines, fixing of poles, etc., form an integral part of its business and, for that purpose, such motor vehicles as trucks, trolleys and trailers are necessary for carriage of cables, poles, wires, other electrical equipments and labour.

Thus, in our view, motor vehicles, meaning thereby only trucks, trolleys, trailers and the like, but not passenger vehicles, as also their accessories and spare parts, tyres and tubes can be purchased by the Electricity Board at the concessional rate of tax prescribed u/s 8(1) of the Act against the use of C forms and for the purpose of clarification, the Electricity Board is also entitled to get an insertion made in its registration certificate issued under the Central Act of "tools and plants including vehicles and other transportable goods including their spare parts, tubes and tyres". So far as soaps, paints and varnishes are concerned, they have been permitted by the Board of Revenue only as may be intended to be used for the purpose of cleaning boilers and machinery and other equipments and for the purpose of painting machinery and electrical goods. Raincoats may also be permissible to be purchased at the concessional rate of tax, as may be necessary for the use of linesmen working on the transmission lines, during the

rainy season and in the extreme winter. Similarly, the battery cells may also be permitted to be purchased by the Electricity Board on C forms, but only to the extent that they are necessary to be used by the linesmen to work on transmission lines during night. The Electricity Board may use C forms for the purposes of buying tyres, tubes, battery cells, raincoats and soaps to the limited extent indicated above....

10. The aforesaid judgment was affirmed in *Commercial Taxes Officer, Circle D, Jaipur (1997) 104 STC 89* wherein the Supreme Court, while noting that the Respondent-Board was engaged in the business of generation and distribution of electricity and what was used in the distribution of electricity or intended for such use fell within the scope of Section 8(3)(b) of the Act read with Rule 13 of the Rules, observed:

...In so far as soaps, paints and varnishes are concerned, the High Court rightly upheld the finding of the Board of Revenue that they were permissible only in so far as they were intended to be used for the purpose of cleaning boilers and machinery and other equipment and for the purpose of painting machinery and electrical goods. Raincoats could be purchased at the concessional rate of tax so far as they were necessary for the use of linesmen working on transmission lines during the rainy season and winter; similarly, battery cells to the extent they were necessary for use by linesmen for working on transmission lines during the night.

Learned Counsel for the Appellant-State drew our attention to the judgment of this Court in *J.K. Cotton Spinning and Weaving Mills Co. Ltd. Vs. Sales Tax Officer, Kanpur and Another*, We do not find anything in that judgment that runs counter to the view taken by the High Court. It was held in *J.K. Cotton Spinning and Weaving Mills Co. Ltd. Vs. Sales Tax Officer, Kanpur and Another*, that if a process or activity was so integrally related to the ultimate manufacture of goods so that without that process or activity manufacture may, even if theoretically possible, be commercially inexpedient, goods intended for use in the process or activity as specified in Rule 13 would qualify for special treatment. The motor vehicles aforementioned and soaps, paints, raincoats and battery cells, to the extent aforementioned, are integrally related to the distribution of electricity and their non-use would make distribution commercially inexpedient. In *Travancore Tea Estates Co. Ltd. Vs. State of Kerala*, what was in issue was the use of fertilizers in the manufacture of tea. This Court distinguished between the agricultural process of cultivation of tea and the subsequent manufacture or processing thereof to make it drinkable and held that the use of fertilizers was necessary only for the process of cultivation which ended with the harvest of the tea leaves. The judgment in *Tata Engineering and Locomotive Company Limited Vs. State of Bihar and Another*, dealt with a notification that used language substantially different from that with which we are concerned and the judgment, therefore, is of no assistance to the case of the Appellant....

(Emphasis supplied)

11. Unlike in Orissa Power Generation Corporation Limited (2008) 15 VST 587, the goods, which were the subject matter of consideration in Commercial Taxes Officer, Circle D, Jaipur (1997) 104 STC 89, were tyres, tubes, raincoats, soapsetc., and not "buildings". The Supreme Court held that these goods were integrally related to the distribution of electricity and their non-use would make distribution commercially inexpedient.

12. The claim for inclusion of building material in the certificate of registration came up for consideration before the Supreme Court in J.K. Cotton Spinning & Weaving Mills Co. Ltd. (1965) 16 STC 563, wherein the Sales Tax Officer had directed that, from the registration certificate, the following items be deleted:

drawing material, photographic material, building material including lime and cement (except cement used in manufacture of tiles for re-sale), electricals, iron and steel and coal

13. The Allahabad High Court rejected the petition. On the matter being carried in appeal, the Supreme Court held:

...BUILDING materials including lime and cement not required in the manufacture of tiles for sale cannot however be regarded within the meaning of Rule 13, as raw materials in the manufacture or processing of goods or even as "plant". It is true that buildings must be constructed for housing the factory in which machinery is installed. Whether a building is a "plant" within the meaning of Rule 13, is a difficult question on which no opinion need be expressed. But to qualify for specification u/s 8(3)(b) goods must be intended for use of the nature mentioned in Rule 13, in the manufacture of goods. Building materials used as raw materials for construction of "plant" cannot be said to be used as plant in the manufacture of goods. The Legislature has contemplated that the goods to qualify u/s 8(3)(b) must be intended for use as raw materials or as plant or as equipment in the manufacture or processing of goods, and it cannot be said that building materials fall within this description. The High Court was, therefore, right in rejecting the claim of the Company in that behalf....

(Emphasis supplied)

14. The afore extracted observations of the Supreme Court, in J & K Cotton Spinning & Weaving Mills Co. Ltd (1965) 16 STC 563, was not noticed by the Division Bench of the Orissa High Court in Orissa Power Generation Corporation Ltd (2008) 15 VST 587. As held by the Supreme Court, in J&K Cotton Spinning & Weaving Mills Co. Ltd. (1965) 16 STC 563, building material used as raw-material even for construction of a plant cannot be said to be used as plant in the manufacture of goods or, as in the case before us, the generation or distribution of electricity. In the present case building material has been used for the purpose of construction of a labour colony, administrative building, and a boundary wall. In view of the law laid down by the Supreme Court, in J&K Cotton Spinning & Weaving Mills Co. Ltd. (1965) 16 STC 563, these goods do not qualify for inclusion in the certificate of registration issued u/s 8(3)(b) of the Act and Rule

13 of the Rules.

15. Sri S. Ganesh, Learned Senior Counsel appearing on behalf of the Petitioner, would, however, contend that these goods form an inextricable and integral part of the power plant in terms of the provisions of the Electricity Act, 2003 and the Electricity (removal of difficulties) order, 2005 and, in view of the statutory requirement, they must be treated as having been used in the generation or distribution of electricity or any other form of power. A similar statutory requirement, of maintenance of health care facilities under the Factories Act, arose for consideration in *Indian Copper Corporation Ltd. v. Commissioner of Commercial Taxes, Bihar* (1965) 16 STC 259, and the Supreme Court held:

...THE statutes relating to factories and mines impose upon the owner of the factory and the mine obligation to maintain effective health services for the benefit of the workmen. But it cannot on that account be said that the goods purchased for the hospital such as equipment, furnishings and fittings are intended for use in the manufacture or processing of goods for sale or in the mining operations. The mere fact that there is a statutory obligation imposed upon the owner of the factory or the mint to maintain hospital facilities would not supply a connection between the goods and the manufacturing or processing of goods or the mining operations so as to make them goods intended for use in those operations.

Counsel for the Corporation contended that the expression "equipment" used in Rule 13 is wide enough to include hospital equipment, furnishings and fittings and maintenance of such equipment being made obligatory by statute, it fell within Rule 13. But Rule 13 requires that the goods including equipment should be intended for use by the owner as equipment in the manufacture or processing of goods for sale or mining operations. If the equipment is not so intended to be used, Rule 13 will not be attracted. For reasons already mentioned, we are unable to hold that hospital equipment, furnishings and fittings fall within the description of equipment intended for use in the manufacture or processing of goods for sale or in mining operations. The High Court was therefore right in declining to specify hospital equipment, furnishings and fittings. The same considerations would apply to medical supplies (item (iv)). In respect of household, furnishings and fittings, there is not even a statutory obligation to which our attention has been invited which requires the Corporation to provide them. The goods falling under that description therefore cannot be specified u/s 8(3)(b) read with Rule 13....

(Emphasis supplied).

16. The mere fact that a statutory obligation is cast on the Petitioner, to construct a labour colony or a compound wall or an administrative building, would not supply a connection between the goods used in such construction and the generation or distribution of electricity or any other form of power so as to make them goods intended for use in those operations. Refusal by the registering

authority to include such building material in the certificate of registration cannot be faulted.

17. The order of the Sales Tax Appellate Tribunal in T.A. No. 344 of 2009 dated 25.03.2010 does not, therefore, necessitate interference in revision proceedings u/s 34(1) of the A.P. VAT Act. T.REV.C. No. 237 of 2010 is, accordingly, dismissed.