(1990) 07 KAR CK 0006

In the Karnataka High Court

Case No : W.A. No. 289 of 1985

Commercial Tax Officer, X Additional Circle, Bangalore — APPELLANT

Vs

Mac Charles Brothers (Private) Limited and another — RESPONDENT

Date of Decision : 11-07-1990

Acts Referred:
Central Sales Tax Act, 1956 — Section 8 (3) (b)

Citation : (1991) 82 STC 162

Hon'ble Judges : S. Mohan, C.J;Shivaraj V. Patil, J

Bench : Division Bench

Advocate : M.R. Achar, for the Appellant; G. Sarangan for K. S. Ramabhadran and S. Parthasarathi, for the Respondent

Judgement

S. Mohan, C.J.—The short question that arises for consideration in this case is as to the scope of section 8(3)(b) of the Central Sales Tax Act, 1956. That section reads as follows :

"The goods referred to in clause (b) of sub-section (1) -

(b) are goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for resale by him or subject to any rules made by the Central Government in this behalf, for use by him in the manufacture or processing of goods for sale or in mining or in the generation or distribution of electricity or any other form of power;"

2. The respondent herein applied for registration for certain goods. That was rejected and ultimately, the matter was taken up to this Court. After remit, the Commercial Tax Officer, X Additional Circle, Bangalore, passed the following order :

"This case has been remanded by the Honourable High Court of Karnataka, vide its order dated October 10, 1984, in Writ Petition No. 15158 of 1984 (M/s. Commercial Tax Officer, X Circle, Bangalore) with a direction to reexamine the matter for inclusion of certain items in the light of the provisions of the Central

Sales Tax Act, 1956. The Honourable Court has also directed to hear the case on October 15, 1984 and give findings of this office on or before October 18, 1984.

Sri K. S. Ramabhadran, Advocate, duly authorised by the firm appeared before me on October 15, 1984, at 3 p.m. He is heard. It is submitted by him that the following items were not included in the registration certificate issued on January 23, 1984 :

1. Racks, exhaust fans, humidifier, weighting scale, light fittings and accessories.

2. Cutlery, crockery, glass and china-ware, table cloth and ware.

3. Building materials, sanitary equipments and fittings, marbles, stones and carpets.

4. Fire-fighting equipment.

5. Air-conditioning and cold storage equipment.

6. Furniture and fittings.

7. Television and music systems and instruments.

8. Elevators and spare parts.

Hence the representative requested to include the abovesaid items in the certificate issued under the Central Sales Tax Act, 1956, for the reasons narrated in the letter filed on October 15, 1984. He has also explained as to how the abovesaid goods are required to be used in the manufacture or processing of goods for sale.

I have examined the contents of the letter filed on October 15, 1984 and the discussion with the representative (M/s. K. S. Ramabhadran, Advocate and others) of M/s. Mac Charles Bros. (P) Ltd., No. 28, Sankey Road, Bangalore.

As per section 8(3)(b) of the Central Sales Tax Act, 1956, read with rule 13 of the Central Sales Tax (Registration and Turnover) Rules, 1957 only the goods or classes of goods for resale or for use in manufacturing and processing of goods for sale or in the generation and distribution of electricity and also the containers or packing materials can be purchased on the strength of ''C'' form by the registered dealer but not otherwise. Accordingly, it was decided to include cold storage equipment and refrigeration equipment in the registration certificate as they are required to be used in the manufacture or processing of goods for sale and not to include other items as requested as they are not coming under purview of the said section.

The proposed action to include certain items in the registration certificate and also rejecting his plea to include other items as requested vide letter dated October 15, 1984, from Sl. Nos. 1 to 4 and from 6 to 8 was intimated to the assesses-firm through the authorised representative through the notice dated October 16, 1984. It was also informed through the said notice to file their written objections on October 18, 1984, at 11 a.m.

In reply to the notice issued to the dealer dated October 16, 1984, the written objection to the form of detailed reply furnished and the same is filed on October 18, 1984 at 3.30 p.m. and the said reply filed is duly perused and considered in detail at each point and finally it is found that the reply furnished for the above notice is not in conformity with the requirement of section 8(3)(b) of the Central Sales Tax Act, 1956, and further, inter alia, the contentions and the points raised in the reply both dated October 15, 1984, as well as the reply filed on October 18, 1984, is almost the similar and the same and there appears to be no any charged opinion or the stand taken by the assessee is observed and also the reply and the explanation furnished are almost irrelevant and they are outside the purview of the section 8(3)(b) of the Central Sales Tax Act, 1956 and, therefore, the same does not call for any further consideration.

In view of the above detailed facts and circumstance of the case, I am of the sincere opinion that the items that are requested to be included in the Central sales tax registration certificate cannot be considered in view of the clear explanation and limitations that are vested in me under the above section. Hence the statement of facts furnished dated October 15, 1984 and reply furnished dated October 18, 1984, have been overruled and the same are rejected and the original stand taken as per the notice dated October 16, 1984 is confirmed.

CW inform the assessee accordingly."

3. This order was challenged again successfully before this Court in Writ Petition No. 17936 of 1984 [Reported in [1986] 63 STC 452]. The learned Judge was of the view that from each of the items for which it had applied for registration, it was not possible to hold that they were not integrally connected with the ultimate production of goods. Accordingly, he allowed the writ petition. Hence, the writ appeal.

4. According to the learned Government Advocate for the State Mr. M. R. Achar, these goods are not used in the manufacture or process of goods for sale, therefore, it should not be ordered. In support of the submission, Travancore Tea Estates Co. Ltd. Vs. State of Kerala, is relied upon. No doubt, that ruling of the Supreme Court points out that in the manufacture, fertilisers and pesticides used cannot be considered as goods used for the purpose of manufacture. We do not think that principle could be extended here having regard to the fact as rightly observed by the learned single Judge that they are integrally connected with the ultimate production of goods, and they would form part of goods used in the manufacture. Therefore, we dismiss the writ appeal. However, there shall be no order as to costs.

5. Writ appeal dismissed.

