(1975) 01 BOM CK 0010

In the Bombay High Court

Case No : Sales Tax Reference No. 26 of 1969

Commissioner of Sales Tax APPELLANT

Vs

Lettering Art. RESPONDENT

Date of Decision : 13-01-1975

Acts Referred:
Bombay Sales Tax Act, 1959 — Section 2(28), 52

Citation : (1975) 35 STC 529

Hon'ble Judges : M.H. Kania, J;D.P. Madon, J

Bench : Division Bench

Advocate : R.A. Dada, for the Appellant; N.H. Thakkar, for the Respondent

Judgement

Madon, J.—The respondent is a proprietary concern belonging to one D. J. Lopes. It had entered into a contract with Messrs. Glance Advertising, Bombay, for the preparation of a design according to the requirements of the said Messrs. Glance Advertising. After the design was prepared the respondent also got prepared and supplied three sets of coloured line blocks on copper plate for the said design as required by the said Messrs. Glance Advertising. In its invoice the respondent billed Messrs. Glance Advertising separately for the cost of preparation of the design and for the supply of blocks.

2. By its application dated 5th July, 1963, made u/s 52 of the Bombay Sales Tax Act, 1959, the respondent asked the Deputy Commissioner of Sales Tax to determine the question whether the art work done by it for Messrs. Glance Advertising, namely, the said design prepared by it, was a sale under the said Act. The Deputy Commissioner held that the contract between the respondent and its customers, Messrs. Glance Advertising, was a severable contract, one for the preparation of art work and the other for the supply of blocks. He came to the conclusion that both these contracts were contracts for sale of goods. The respondent went in appeal to the Tribunal against the said order of the Deputy Commissioner so far as his finding that the preparation and supply of the design constituted a sale. The Tribunal held that this was not a transaction of sale. This

reference was thereafter made at the instance of the Commissioner of Sales Tax and the question which has been referred to us is :

"Whether, having regard to the facts and circumstances of the case, the Tribunal was justified in law in coming to the conclusion that the impugned transaction in respect of the preparation and supply of the design by the respondent to his customers was not a sale within the meaning of section 2(28) of the Bombay Sales Tax Act, 1959 ?"

3. The question which arises in this reference is concluded by our judgment delivered today in Commissioner of Sales Tax v. Studio Ratan Batra Private Ltd. ([1975] 35 S.T.C. 522) (Sales Tax Reference No. 10 of 1972). Following the said decision we answer the question in the affirmative. The applicant will pay to the respondent to costs of this reference.

4. Reference answered in the affirmative.

