(1986) 02 BOM CK 0054

In the Bombay High Court

Case No : Sales Tax Reference No. 62 of 1980

Commissioner of Sales Tax APPELLANT

Vs

Paper Process Works RESPONDENT

Date of Decision : 24-02-1986

Acts Referred:
Bombay Sales Tax Act, 1959 — Section 14, 2(17), 61(1)

Citation : (1986) 62 STC 322

Hon'ble Judges : M.H. Kania, Acting C.J.;Sujata V. Manohar, J

Bench : Division Bench

Judgement

Kania, A.C.J.

1. This is a reference u/s 61(1) of the Bombay Sales Tax Act, 1959. The question referred to us for our determination is as follows :

"Whether on the facts and in the circumstances of the case the Tribunal was correct in law in coming to the conclusion that the paper reels of smaller width sold by the respondent were not a commercially different commodity from the paper rolls of bigger width from which they were prepared by the process of slitting the paper did not amount to manufacture u/s 2(17) of the Bombay Sales Tax Act, 1959, and consequently there was no contravention of the recitals of form 14 and no purchase tax u/s 14 was payable ?"

It is quite apparent that this question which is referred does not appear to be grammatically correct, and with the consent of the counsel, we reframe the same as follows :

"Whether on the facts and in the circumstances of the case the Tribunal was correct in law in coming to the conclusion that the paper reels of smaller width prepared and sold by the respondent were not a commercially different commodity from the paper rolls of bigger width from which they were prepared and that the process or activity of slitting the said paper rolls of bigger width into paper reels of smaller width carried out by the assessee did not amount to manufacture u/s 2(17) of the Bombay Sales Tax Act, 1959, and hence there was no contravention of the recitals of form 14 and no purchase tax u/s 14 was payable ?"

2. The assessee is the same as the assessee in S.T.R. No. 72 of 1980, Commissioner of Sales Tax v. Paper Process Works [1986] 62 STC 317, decided by us on 20th February, 1986. The activity which is carried on by the assessee is also the same, and it is common ground that in view of our decision in that reference, the question referred in this reference will have to be answered in the affirmative and in favour of the assessee.

3. The question is answered accordingly. There will be no order as to costs of this reference.

4. Reference answered in the affirmative.

