(1997) 04 SC CK 0182

In the Supreme Court Of India

Case No : Civil Appeal No. 3319 Of 1981

Commissioner of Sales Tax, M.P. APPELLANT

Vs

Rewa Coal Fields Ltd. and Another RESPONDENT

Date of Decision : 09-04-1997

Acts Referred:

Citation : (1997) 9 SCC 243 : (1997) SCC(L&S) 1149

Hon'ble Judges : S. C. Sen, J;K. T. Thomas, J

Bench : Division Bench

Judgement

S.C. Sen and; K.T. Thomas, JJ.-These are cases under the Madhya Pradesh General Sales Tax Act, 1958. The question is whether timber, kerosene, limestone and cement can be treated as raw material for the purpose of the Act. "Raw Material" has been defined in Section 2(1) of the Act. On behalf of the respondent, it has been contended that the dispute is concluded by the principles laid down in the case of Tata Engineering & Locomotive Co. Ltd. v. State of Bihar1.

2. Tata Engineering & Locomotive Co. case was decided under the provisions of the Bihar Finance Act, 1981. In that case, reliance was placed upon the decision of this Court in the cases of J.K. Cotton Spg. & Wvg. Mills Co. Ltd. v. STO and also Indian Copper Corpn. Ltd. v. Commr. of Commercial Taxes3.

3. Section 8 of the Central Sales Tax Act lays down the rate of tax chargeable on sales in course of inter-State trade or commerce. It inter alia provides that every dealer who sells to a registered dealer other than government goods of the description referred to in sub-section (3) shall be liable to pay tax at the rate of 4 per cent of his turnover. The goods referred to in clause (b) of sub-section (1) has been described inter alia in clause (b) of sub-section (3). That apart, pursuant to the authority conferred by Section 13 of the Act, the Central Government made Rule 13 which provides as under:

"13. The goods referred to in clause (b) of sub-section (3) of Section 8 which a registered dealer may purchase, shall be goods intended for use by him as raw materials, processing materials, machinery, plant, equipment, tools, stores, spare parts, accessories, fuel or lubricants, 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."

4. The scope of Rule 13 fell for consideration in the case of Indian Copper Corpn. Ltd.3 as well as J.K. Cotton Spg. and Wvg. Mills Co. Ltd. We are here concerned with the Madhya Pradesh Finance Act. Nothing comparable to Rule 13 has been framed by the Madhya Pradesh Government. In Tata Engineering and Locomotive Co. case1 the principles laid down in the aforesaid two judgments of J.K. Cotton Spg. and Wvg. Mills Co. Ltd.2 and also Indian Copper Corpn. Ltd.3 were followed. It does not appear that there was anything corresponding to Rule 13 of the Central Sales Tax Rules framed under the Bihar Act. The respondent contended that the point at issue is now concluded by the principles laid down in Tata Engineering and Locomotive Co. case1. The material provisions of M.P. Act are substantially similar to the corresponding provisions of the Bihar Act.

5. The question is whether the law laid down by this Court in J.K. Cotton Spg. & Wvg. Mills Co. Ltd. and Indian Copper Corpn. Ltd. will apply in full force to these cases under the Madhya Pradesh General Sales Tax Act, 1958.

6. In our view, this question should be examined by a larger bench. This case may be placed before the Hon''ble Chief Justice for appropriate orders.