

(1961) 03 P&H CK 0021
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 467 of 1960

Devgun Iron and Steel Rolling Mills	Vs	APPELLANT
The State of Punjab and Others		RESPONDENT

Date of Decision : 30-03-1961

Acts Referred:

Central Sales Tax Act, 1956 — Section 14, 15
Constitution of India, 1950 — Article 226

Citation : (1961) 12 STC 590

Hon'ble Judges : Mehar Singh, J;A.N. Grover, J

Bench : Division Bench

Advocate : H.L. Sibal and Atma Ram, for the Appellant; S.M. Sikri, Advocate-General, for the Respondent

Final Decision : Dismissed

Judgement

Mehar Singh, J.—This judgment will dispose of Civil Writ Petitions Nos. 467 to 477, 870, 1629, and 1653 of 1960 by various petitioners who are owners of Iron and Steel Rolling Mills at various places. The respondents in the petitions are the State of Punjab, the Excise and Taxation Officer, i.e., the assessing authority concerned, and the Deputy Excise and Taxation Commissioner, respectively respondents Nos. 1 to 3. The petitions are under Article 226 seeking writs, directions and orders against the respondents to have proceedings quashed in regard to the realization of purchase tax from the petitioners and prohibition against them from proceeding against the petitioners to recover the alleged amount of purchase tax.

2. In substance the case of the petitioners is that they carry on the business of rolling steel into rolled steel sections. They purchase steel and roll it into rolled steel sections. They claim that the process of rolling steel into rolled steel sections is not a process of manufacture and that this process amounts to no more than making the steel to be a more marketable commodity as Such. According to them the nature and character of the commodity docs not undergo

any alteration. The assessing authority has called upon them to pay purchase tax under the Punjab General Sales Tax Act (Punjab Act No. 46 of 1948) as amended by the East Punjab General Sales Tax (Amendment) Act (Punjab Act No. 7 of 1958). They claim that the levy of purchase tax upon them is not valid because (a) rolling of steel into rolled steel sections is not "manufacture" within the meaning of Section 2(ff) of the Act, (b) the sellers of steel to the petitioners are said to be liable to pay sales tax under the Act, and (c) it is not made clear at what stage in a particular case the sale or the purchase tax is leviable and as sale or purchase tax may not be levied at more than one stage and may not exceed 2 per cent, the Legislature should have specified at what particular stage the sale or purchase tax is leviable. These are in substance the three grounds of challenge against the demand of the assessing authority of the purchase tax from the petitioners in regard to the steel purchased by them to roll the same into rolling steel sections in their mills.

3. At the hearing it has not been the position by the learned counsel appearing for the various petitioners that rolling of steel into rolled steel sections is not a process of manufacture. It is not true that this process only renders steel into a more marketable commodity and not into a different commodity. In Section 14 of the Central Sales Tax Act, (No. 74 of 1956) Clause (iv) deals with "iron and steel" as one of the goods declared of special importance in inter-State trade or commerce, and under this clause there are four heads, of which head (a) relates to pig iron and iron scrap, head (c) to steel scrap, steel ingots, steel billets, steel bars and rods, and head (d) (iv) to rolled steel sections sold in the same form in which they are directly produced by the rolling mills. It is clear that rolled steel sections are treated as a separate commodity as against the raw material dealt with in heads (a) and (c) of this clause. At the hearing what was stated was that the petitioners purchased iron scrap or steel scrap and then rolled the same into rolled steel sections. In the petitions it is not made so clear. It is obvious that when the raw material Of iron or steel that the petitioners purchase and rolling the same turn into rolled steel sections, the outcome, that is to say, the rolled steel sections, is a new commodity, the result of the process of manufacture by steel having been rolled into that commodity. So the first ground urged is without basis and what is purchased by the petitioners as iron or steel for the purpose of rolling it into rolled steel sections is acquisition of goods for use in the manufacture of goods for sale and thus it is purchase as that expression is used in Section 2(ff) as added by Punjab Act No. 7 of 1958 to the principal Act. The petitioners are therefore liable to pay purchase tax on such purchase.

4. In regard to the second argument what is said is that under the Act when a seller of steel sells it to a person other than a manufacturer sales tax is collected. But when he sells it to a manufacturer purchase tax is collected. And in this manner the same commodity is taxed more than once which is contrary to Section 15(a) of Act No. 74 of 1956, which provision lays down that every sales tax law of a State shall, in so far as it imposes or authorises the imposition of a tax on the sale or purchase of declared goods, be subject to, among other

restrictions and conditions, this restriction and condition, namely,-

the tax payable under that law in respect of any sale or purchase of such goods inside the State shall not exceed two per cent, of the sale or purchase price thereof, and such tax shall not be levied at more than one stage.

5. It is contended that in the manner in which both sales and purchase tax are leviable under the Act more than two per cent, of such tax is collected at more than one stage. It has not been shown that in regard to the sale and purchase of one commodity in one transaction both sales tax and purchase tax are leviable nor has it been shown that for the same commodity in the same state, without it going into another shape and coming out as a new commodity, either sale or purchase or both taxes are levied at more than one stage. What has been urged at the hearing is that in the case of sale by a seller of steel to a consumer what is attracted is sales tax but when he sells the same to a manufacturer for its use in manufacture what is attracted is purchase tax, but then where sales tax is attracted there is no purchase tax and where purchase tax is attracted there is no sales tax. It means that the same commodity in certain circumstances and in the case of certain transactions with a particular class of persons may attract one or the other, that is to say, either sales tax or purchase tax, but not both. So this contention that tax is charged on more than one stage on the same commodity is not correct. This brings for consideration another argument by the learned counsel which incidentally has not been taken by the petitioners in their petitions, that according to Section 15(a) of Act No. 74 of 1956 what a State is authorised to do is either to impose or authorise the imposition of a tax on the sale or purchase of declared goods and the learned counsel for the petitioners have interpreted this to mean that sales tax must be leviable on a commodity as such as a whole and not that a commodity in certain circumstances may be liable to sales tax and in other circumstances to purchase tax. This obviously not a correct reading of this provision and the conclusion does not follow from the language. This, as stated, has not been the ground of attack in the petitions. So it is dropped from consideration.

6. The only other ground urged is that more than two per cent, of the price of the goods is charged as tax under the Act and that is explained in this way. It is said that the seller of steel to an ordinary consumer attracts sales tax on the transaction, that when he sells it to a manufacturer, it is the purchase tax that is attracted, and that after the petitioners as manufacturers have rolled steel into rolled steel sections and they sell it to consumers what is attracted is sales tax. In all the three cases two per cent, of the price is charged, which altogether makes sometimes four per cent, and sometimes six per cent, of the price. This is not quite the correct way of looking at the matter and part of it has already been explained. When steel is rolled into rolled steel sections the outcome is a different and a new commodity and when it is sold it is a sale of a different commodity and not a sale of steel over again. Therefore when sales tax is attracted on the sale of rolled steel sections it is not attracted a second time or at

the second stage on the same commodity in the same condition. It has already been explained that when sales tax is attracted in the case of a sale to an ordinary consumer of steel then no purchase tax is attracted and on the other hand when steel is sold to a manufacturer no sales tax is attracted but what, is leviable is purchase tax. So in the three instances relied upon they do not go together and make out two stages or three stages of sale or purchase tax or both taxes on the same commodity in the same condition. This argument to my mind is not properly conceived.

7. There is no other argument that has been urged in support of these petitions. The result is that all these petitions are dismissed but in all the petitions a consolidated amount of Rs. 250 is allowed as costs to the respondents, the petitioners among themselves sharing this amount equally.

A.N. Grovek, J.

8. I agree.