(1956) 11 AP CK 0016

In the Andhra Pradesh High Court

Case No : T.R.C. No. 12 of 1956

Gopala Mines and Mineral Works APPELLANT

Vs

State of Andhra RESPONDENT

Date of Decision : 08-11-1956

Acts Referred:

Citation : AIR 1957 AP 196 : (1957) ALT 88 : (1957) 8 STC 4

Hon'ble Judges : K. Subba Rao, C.J;Manohar Pershad, J

Bench : Division Bench

Advocate : N.V.B. Shankara Rao, A. Siva Rao, D.V. Sastry and M. Seshachalapathi, for the Appellant;

Final Decision : Dismissed

Judgement

K. Subba Rao, C.J.—This is a revision against the order of the Andhra Sales Tax Appellate Tribunal, Guntur, confirming that of the Deputy Commissioner of Commercial Taxes, Guntur.

2. The facts are simple. The assessee-firm took on lease block No. 11 of Kolanukonda belonging to Sri D. V. Subramanya Sastri for a period of one year commencing from June, 1953, for a sum of Rs. 9, 500. The assessee employed labourers and worked out the quarry. They sold the resultant metal, big and small stones, gravel and rubbish to third parties. The Sales Tax Authorities assessed the firm to sales tax on the turnover representing the sales of the aforesaid material. The assessee claims exemption in respect of that turnover by reason of the notification issued by the Government u/s 6(1) of the Madras General Sales Tax Act, 1939. The tribunals held that the said exemption applied only to quarrying contracts and, on that ground, rejected the claim to exemption made by the assessee. Hence, the revision.

3. Learned counsel for the assessee contends that, u/s 6(1) of the Act, the Government can only exempt the sales of any specified class of goods and that the notification must be construed as exempting the goods particularised therein.

To appreciate the contention, it will be convenient to read section 6(1) and the notification issued by the Government thereunder.

"Section 6(1) : The State Government may, by notification in the Fort St. George Gazette, make an exemption, or reduction in rate, in respect of any tax payable under this Act -

(i) on the sale of any specified class of goods, at all points or at any specified point or points in the series of sales by successive dealers. "Notification G.O. No. 2786 dated 25th October, 1951 :

"In exercise of the powers conferred by section 6(1) of the Madras General Sales Tax Act, 1939 (Act IX of 1939). His Excellency the Governor of Madras hereby exempts earthwork, laterite, metal, sand, jelly and gravel quarrying contracts from tax u/s 3(1) of the said Act."

4. The notification is either valid or invalid. If it is invalid the assessee obviously cannot take advantage of that exemption. Both the learned counsel, therefore, argued the case on the assumption that the Government, in issuing the notification, did not exceed the power conferred on them u/s 6(1)(i) of the Act. Therefore, the scope of the exemption is confined only the express terms in which the section is couched. Under the terms of the notification, the Government exempted quarrying contracts of the material mentioned therein. We cannot agree with the learned counsel that the words quarrying contracts qualified only the word "gravel". The more reasonable interpretation is that the words "quarrying contracts" qualified earthwork, laterite, metal, sand, jelly and gravel. If so constructed, what is exempted is quarrying contracts of those materials but not the out and out sale of those materials. It may be that the Government thought it fit to exempt contracts where under the lessee or other contracting party agrees to quarry materials mentioned in the notification leaving untouched the right of the State to tax the subsequent sale of the material quarried. As the terms of the notification are clear and unambiguous, it is not necessary to discover the principle behind the notification. We, therefore, agree with the Tribunal that the sales effected by the assessee of metal, gravel, rubbish etc. are not exempt from sales tax. The revision fails and is dismissed with costs. Advocate''s fee Rs. 100.