(1986) 11 OHC CK 0025

In the Orissa High Court

Case No : Special Jurisdiction Case No. 130 of 1978

Hari Samanta and Sons APPELLANT

Vs

The State of Orissa RESPONDENT

Date of Decision : 20-11-1986

Acts Referred:

Orissa Sales Tax Act, 1947 — Section 24(1), 5(2)(A)(a)(ii)

Citation : (1987) 66 STC 86

Hon'ble Judges : H.L. Agrawal, C.J;S.C. Mohapatra, J

Bench : Division Bench

Advocate : A. Pasayat, for the Appellant; Standing Counsel (Commercial Taxes), for the Respondent

Judgement

H.L. Agrawal, C.J. and S.C. Mohapatra, J.—The short question that arises for consideration in this case on a reference u/s 24(1) of the Orissa Sales Tax Act is as to whether sized timbers would be covered within the meaning of logs which the petitioner had purchased on submission of declarations. The assessing authorities under an erroneous impression held that by processing the logs and timbers and making them as "sized timbers" the assessee had converted the logs into a different commodity and therefore the declaration given by the petitioner in respect of the logs had been contravened. A demand was accordingly raised u/s 5(2)(A)(a)(ii) of the Orissa Sales Tax Act on the assessee-petitioner. Both the appellate authority and the Tribunal affirmed the demand and ultimately the petitioner having not succeeded, the matter has come up before us.

2.Having heard the learned counsel for both parties, we do not feel it necessary to enter into a long discussion, as the matter has been clarified by the Supreme Court in AIR 1985 SC 1293 (State of Orissa v. Titaghur Paper Mills Company Limited). The said case of the Supreme Court was preferred against the decision of this Court. The Supreme Court referred to an earlier decision of this Court in the case reported in [1975] 35 STC 270 (Krupasindhu Sahu & Sons v. State of Orissa) and in para 91 while considering whether beams, rafters and planks should also be logs or timbers on a reference to the dictionary meaning of the products, observed that all these various resultant products from timber or log would also be covered within the ambit of expression "timber" or "log" put to a particular use. The view taken by this Court in [1975] 35 STC 270 (Krupasindhu Sahu and Sons v. State of Orissa) that big sized logs of wood ordinarily used in house construction as beams and pillars would be covered within the meaning of timber and log was approved but the view that the timber when converted into planks, rafters and other wood products would not come within the meaning of "log" or "timber", was rejected. It was categorically held that the planks and rafters would also be log or timber.

3. In that view of the matter, we also hold that the sized timbers are covered within the expression of logs and timbers. The assessee-petitioner, therefore, had not committed any violation and the declarations submitted by him were in order.

4. In the result both the questions are answered in favour of the assessee and against the department. We make no order as to costs.

