(2001) 03 SC CK 0012

In the Supreme Court Of India

Case No : Civil Appeal No: 1404, 1405, 1406, 1407, 1408, 1409 of 1999, 1410, 1411, 1412, 1413 of 1999

ITC Bhadrachalam Paper Boards Ltd. APPELLANT

Vs

State of A.P. RESPONDENT

Date of Decision : 21-03-2001

Acts Referred:

Citation : (2003) 11 SCC 743 : (2003) 11 SCC 679 : (2002) 126 STC 541

Hon'ble Judges : Y. K. Sabharwal, J;S. P. Bharucha, J;N. Santosh Hedge, J

Bench : Full Bench

Advocate : M.L. Verma and Kailash Vasdev, Devadatt Kamat, S. K. Shandilya and V.D. Khanna, for the Appellant; T. Anil Kumar and P. Venkata Reddy, for the Respondent

Final Decision : Allowed

Judgement

1. We have heard learned counsel and find no good reason to differ from the view of the High Court in regard to the first question which reads thus :

"(1) Whether coal and coal-ash (cinder) are to be treated as the same commodity or as different commodities for the purpose of taxation under the Andhra Pradesh General Sales Tax Act, 1957 ?"

2. In so far as the second question is concerned, we take a different view. The second question reads thus :

"(2) Whether coal-ash is a product of the petitioner''s industrial unit and whether the sale of ''coal-ash'' by the petitioner is eligible for exemption under G.O. Ms. No, 606, dated April 9, 1981?"

3. The High Court was of the view that the main production activity of the appellant was the manufacture of paper and paper boards, that coal-ash was only the left-over residue after burning coal as fuel in the manufacture of paper and paper boards, and that, therefore, the appellant was not entitled to the

exemption on the sale of coal-ash under G.O. Ms. No. 606, dated April 9, 1981 as the coal-ash was not a product of the appellant. The aforesaid order gives "complete exemption to the products of the industry from sales tax for a limited period of five years". The coal-ash that is produced as a result of the burning of coal as fuel is a product of the appellant-industry though it might not be the principal product for which the industry was established. Even so, being a product of the industry, it is entitled to the exemption given by the said order. This second question, therefore, must be answered in favour of the appellant,

4. Given these two answers, the consideration of the third and fourth questions does not arise.

The civil appeals are allowed to the extent aforestated.

No order as to costs.

