(1983) 01 AP CK 0007

In the Andhra Pradesh High Court

Case No : T.R.C. No''s. 41 and 42 of 1979

K.C. Engineering Works and Another — APPELLANT

Vs

State of Andhra Pradesh — RESPONDENT

Date of Decision : 18-01-1983

Acts Referred:
Andhra Pradesh General Sales Tax Act, 1957 — Section 5

Citation : (1983) 53 STC 403

Hon'ble Judges : Punnayya, J;B.P. Jeevan Reddy, J

Bench : Division Bench

Advocate : M. Suryanarayana Murthy, for the Appellant; The Government Pleader, for the Respondent

Judgement

Jeevan Reddy, J.—A common question arises in these two T.R.Cs. The petitioners are the manufacturers of certain components of electrical fans. The petitioner in T.R.C. No. 41 manufactures shafts and lower sockets among other things, while the petitioner in T.R.C. No. 42 manufactures mesh guards and clamps. The petitioners'' case was that the goods manufactured by them should be charged as general goods and not as part of electrical fans.

2. Parts of electrical fans fall under entry 38(iii) of the First Schedule to the Andhra Pradesh General Sales Tax Act. The relevant entry reads as follows :

> (1) (2) (3) -- "38. All kind of electrical goods, At the point of 8 paise in instruments, apparatus and first sale in the rupee." appliances, that is to say :- the State. (i) ....

(ii) ....

(iii) electrical fans, lighting bulbs, torches, fluorescent tubes and their fittings, like chokes and starters and other parts and accessories thereof.

3. The first contention of Mr. Suryanarayana Murthy, the learned counsel for the petitioners, is that entry 38(iii) does not include parts or accessories of electrical

fans. According to him, the words "and other parts and accessories thereof" occurring in entry 38(iii) refer to and are confined to the parts and accessories of fluorescent tubes only. The learned counsel emphasises the language of entry 38(iii) to contended that the parts and accessories of electrical fans, lighting bulbs and torches were not intended to be included in the said entry. We are unable to agree.

4.Entry 38(iii) refers to (a) electrical fans, (b) lighting bulbs, (c) torches, (d) fluorescent tubes and their fittings, like chokes and starters. The entry then goes further and includes other parts and accessories of the above goods also within its fold. This, in our opinion, is the true purport of the entry and gives full effect to the intention of the legislature. Otherwise, we see no reason why the parts and accessories of fluorescent tubes were included within the entry, but not the parts and accessories of electrical fans, lighting bulbs or torches. Accepting the learned counsel''s construction would amount to unwarranted curtailment of the meaning and scope of the said entry. We therefore hold that the words "and other parts and accessories thereof" occurring in entry 38(iii) qualify not only the words "fluorescent tubes" but also the words "electrical fans, lighting bulbs and torches", occurring in the said entry.

5. The second contention of Mr. Suryanarayana Murthy is that the components manufactured by the petitioners are not really parts of electrical fans since they are not fitted as such. His contention is that the mesh guards are supplied to the manufacturers of electrical fans without polishing or painting them and that the manufacturers of electrical fans do the polishing or painting, as the case may be. His case therefore is that since the parts supplied by the petitioners are not fitted as such, but something more is done to them before they become components of electrical fans, these components cannot be called parts of electrical fans. We must say we are unable to appreciate this contention. The mere fact that these parts were not painted or polished by the petitioners does not make them any the less parts and accessories of electrical fans. The second contention also is accordingly rejected.

6. His third contention is that these components are covered by notification issued u/s 5-B of the Andhra Pradesh General Sales Tax Act and that therefore these goods ought to have been charged at a rate not exceeding four per cent. Section 5-B empowers the Government to notify that goods specified in a scheme published by it, which are sold to another for use by the latter, as component parts of any other goods specified in the said scheme, shall be taxed at a rate not exceeding four per cent. But for claiming this concessional rate, the dealer selling the goods has to furnish to the assessing authority, in the prescribed manner, a declaration duly filled in and signed by the dealer to whom the goods are sold, containing the prescribed particulars and in the prescribed form. Rule 30-A requires such declaration to be furnished along with the return. In this case admittedly these declarations are not filed by the petitioners along with their returns, or latter. Indeed, the Rules do not contain any provision for

the furnishing of those declarations at any point of time subsequent to the making of the assessment.

7. We are therefore unable to say that the Tribunal was in error in holding that the petitioners are not entitled to concessional rate u/s 5-B on the ground that they have not furnished the prescribed declarations within the prescribed time.

8. For the above reasons, the T.R.Cs. fail and accordingly dismissed. No costs. Advocate''s fee Rs. 250 in each.