(1966) 09 AP CK 0022

In the Andhra Pradesh High Court

Case No : Special Appeal No. of 1964

Lakshmi Ganesh Rice Mill APPELLANT

Vs

Board of Revenue (C.T.) RESPONDENT

Date of Decision : 06-09-1966

Acts Referred:
Andhra Pradesh General Sales Tax Act, 1957 — Section 20

Citation : (1968) 22 STC 506

Hon'ble Judges : P. Jaganmohan Reddy, C.J;Venkatesam, J

Bench : Division Bench

Advocate : P. Rama Rao, for the Appellant; The Principal Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

Jaganmohan Reddy, C.J.—This appeal is against an order of the Board of Revenue passed in revision u/s 20 of the Andhra Pradesh General Sales Tax Act. The Deputy Commissioner of Commercial Taxes, allowing the appeal of the appellant gave him the relief in respect of inter-State sales, which relief the Board denied to him following a decision of a Bench of this Court in T.R.C. Nos. 3 to 6 of 1957, Reported as Sri Ramakrishna Commercial Society Ltd. v. The State of Andhra (Mow Andhra Pradesh) [1961] 12 S.T.C. 31. Therein it was held that the transactions, though entered into by buyers within the State in respect goods to be delivered outside the State, the railway receipts being endorsed in the name of the buyer, were not inter-State transactions but transactions within the State, and therefore, taxable under the Madras General Sales Tax Act.

2. A similar question had arisen in another case, T.R.C. No. 27 of 1958, decided on 7th April, 1960, against which an appeal was filed to the Supreme Court. In that case, viz., Shree Bajarang Jute Mills Ltd., Guntur v. The State of Andhra Pradesh [1964] 15 S.T.C. 430, their Lordships of the Supreme Court held that as the goods were sent under railway receipts to places outside the State of Andhra, and actually delivered for the purpose of consumption in those States, the State

of Andhra had no authority to levy tax in respect of those sale transactions.

3. In view of this decision of the Supreme Court, the decision of the Board of Revenue on the facts as found has to be set aside. It is not disputed by the learned Government Pleader that the actual delivery took place outside the State, which is the criterion held to be necessary to bring the transactions within the ambit of the definition of sale.

4. The appeal is, therefore, allowed, the decision of the Board of Revenue is set aside, and the order of the Deputy Commissioner of Commercial Taxes, Guntur, is restored. There will be no order as to costs. Advocate''s fee Rs. 100.

