(1990) 03 AP CK 0027

In the Andhra Pradesh High Court

Case No : T.R.C. No. 116 of 1989

Nitin Kumar and Co. APPELLANT

Vs

State of Andhra Pradesh RESPONDENT

Date of Decision : 26-03-1990

Acts Referred:
Andhra Pradesh General Sales Tax Act, 1957 — Section 6C

Citation : (1990) 78 STC 104

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

Bench : Division Bench

Advocate : Tejprakash Toshniwal, for the Appellant; Government Pleader for C.T., for the Respondent

Judgement

Jeevan Reddy, J.—The assessment year concerned herein is 1981-82. Hence, the following order :

The tax revision case has to be allowed and the matter remitted to the Tribunal in the light of the decision of the Supreme Court in Raj Sheel v. State of Andhra Pradesh [1989] 74 STC 379.

2. In this case, the turnover relating to gunnies was exempted by the assessing authority. A part of the turnover was taxed under the Central Sales Tax Act, 1956, according to the petitioner. Be that as it may, the Deputy Commissioner revised the order of the assessing authority, and applying the provisions of section 6-C of the Andhra Pradesh General Sales Tax Act, 1957, held that the turnover relating to gunnies ought to be taxed at the same rate as the contents. The Tribunal dismissed the appeal filed by the petitioner following the decision of this Court in Raj Sheel v. State of Andhra Pradesh [1987] 64 STC 398.

3. Since the decision of this Court has been explained and modified by the Supreme Court in the aforesaid decision, it is now necessary to verify the factual position, viz., whether there was an agreement of sale of gunnies, either implied or express.

4. The tax revision case is accordingly allowed and the matter remitted to the Tribunal to examine the turnover relating to gunnies in the light of the decision of the Supreme Court. The petitioner shall also be entitled to urge the contention relating to part of the said turnover being taxed under the Central Sales Tax Act, and its effect, if any, on the said question.

5. No order as to costs. Advocate''s fee Rs. 150.

6. Petition allowed.

