(1986) 03 P&H CK 0041

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 275 of 1979

Phul Chand Arora APPELLANT

Vs

The State of Punjab and Another RESPONDENT

Date of Decision : 19-03-1986

Acts Referred:

Citation : (1986) 63 STC 464

Hon'ble Judges : I.S. Tiwana, J

Bench : Single Bench

Advocate : R.C. Dogra and R.K. Rathore, for the Appellant; G.S. Grewal, Advocate-General and H.S. Nagra, for the Respondent

Final Decision : Dismissed

Judgement

I.S. Tiwana, J.—The undisputed facts are that the petitioner-concern refines used mobil-oil and makes it reusable, though with lesser efficiency and lubricating strength. Its case is that at all stages the used mobil-oil which is collected by it in the State of Punjab for purposes of processing and making it reusable has suffered tax at the first stage of sale in the State of Punjab; it cannot thus be subjected to tax again when sold by the petitioner for reusing the same. In other words the plea is that the mobil-oil, as sold initially having been used for some time, might have been rendered useless and may not be of any service on account of the impurities having come therein and with the removing of those impurities the petitioner though makes it reusable yet it involves no manufacturing process and, therefore, the reusable mobil-oil cannot be subjected to tax. As against this, the stand of the respondent-authority is that the petitioner is engaged in the business of refining used or waste mobil-oil and manufactures therefrom oil by adding certain chemicals through mechanical process and this certainly amounts to manufacturing process and thus the mobil-oil produced by the petitioner is liable to tax when sold. It is, however, conceded that mobil-oil is liable to tax only at the first stage of sale.

2. Having heard the learned Counsel for the parties, I find no merit in the

abovenoted stand of the petitioner. Though the word "manufacture" has not been defined in the Punjab General Sales Tax Act yet by now it is well laid down that for an activity to amount to manufacture it must result in a different commercial article or commodity. In other words, it must not be a commodity which is commercially the same as it was before the activity was applied to it. The test, therefore, is that in order to ascertain whether the activity results in a commercially different commodity, it is irrelevant whether the result is produced by a mechanical or chemical process or otherwise. It is well evident from the narration of facts noticed above, the petitioner produces a commodity by refining the used mobil-oil which is commercially different from the one it was prior to the process the petitioner applied to the same. I am, therefore, satisfied that the mobil-oil produced by the petitioner for reuse is commercially different from the one purchased by it, i.e., used or waste mobil-oil.

3. In the light of this, I find no merit in this petition and the same is thus dismissed, but with no order as to costs.

