(1966) 09 AP CK 0004

In the Andhra Pradesh High Court

Case No : Special Appeal No. 36 of 1963

P.V. Subrahmanyam and Co. APPELLANT

Vs

The Board of Revenue (C.T.) RESPONDENT

Date of Decision : 06-09-1966

Acts Referred:
Central Sales Tax Act, 1956 — Section 13

Citation : (1967) 19 STC 113

Hon'ble Judges : 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 : Dismissed

Judgement

Jaganmohan Reddy, C.J.—This appeal is against an order passed by the Board of Revenue in revision u/s 20 of the Andhra Pradesh General Sales Tax Act, setting aside the exemption given by the Deputy Commercial Tax Officer u/s 8 of the said Act.

2. It appears that for the assessment year 1958-59, the appellant entered into four transactions in the course of inter-State trade in rice, but produced only two declaration forms embracing these four transactions. These declaration forms have to be filed u/s 8(4) in order to obtain concession u/s 8(1). The Deputy Commercial Tax Officer, having come to the conclusion that these declaration forms were not in conformity with Rule 9-A of the Central Sales Tax (Andhra Pradesh) Rules, gave exemption only in respect of one declaration form. On appeal to the Deputy Commissioner of Commercial Taxes, he held that the dealers were entitled to the concessional rate of tax at 1 per cent, to the extent of Rs. 5,000 though a single declaration form was filed for more than one transaction exceeding Rs. 5,000 in value, and accordingly ordered that the sale amounts covered by the ''C'' Form, mentioned in items (3) and (4) should be assessed to tax at the rate of 1 per cent, to the extent of Rs. 5,000, and the

balance at 7 per cent. In this way, the assessee obtained concessions in respect of both the declaration forms. The Board of Revenue, however, on a suo molu revision, after having given a show cause notice to the appellant, who, in spite of being afforded an opportunity to be heard, neither appeared in person nor through an Advocate, thought that since neither of the declaration forms conformed to the conditions specified in Rule 9-A, the concession u/s 8(1) will not be available to the assessee by virtue of Sub-section (4) of the same section.

3. Mr. Rama Rao contends before us that Rule 9-A is not applicable to inter-State transactions, but is only confined to purchases in the State. We are unable to understand this argument. Rule 9-A has been made u/s 13(4) of the Central Sales Tax Act by the appropriate State Government, viz., the Government of Andhra Pradesh. The exemption u/s 8(1) of the said Act is available to a seller who sells the goods provided he furnishes to the prescribed authority in the prescribed manner a declaration duly filled and signed by the registered dealer to whom the goods are sold, containing the prescribed particulars in a prescribed form obtained from the prescribed authority. It is clear from this sub-rule that the declaration must be duly filled and signed by the purchaser in order that the seller should be entitled to be assessed to the concessional rate under Sub-section (1) of Section 8. The purchaser, therefore, must fill and sign the declaration forms containing the necessary particulars in a form obtained from the prescribed authority in the prescribed manner. Under Rule 12(1) of the Rules made by the State of Andhra Pradesh under the Central Sales Tax Act, Form ''C'' has been prescribed as the form of declaration to be made by the purchaser in order to entitle the seller to be assessed at concessional rate under Sub-section (1) of Section 8. This form itself shows that it should be furnished to the prescribed authority in accordance with the rules framed u/s 13(4)(e) by the appropriate State Government. It is not denied by Mr. Rama Rao that these are rules made by the State Government u/s 13(4)(e), of which Rule 9-A is one. Rule 9-A prescribes that a registered dealer who purchases goods in the course of inter-State trade or commerce may issue a single declaration form to cover two or more such purchases provided that (i) all such purchases are made from the same dealer, (ii) the turnover of all the purchases so made does not exceed Rs. 5,000 and (iii) all such purchases relate to the same assessment year.

4. It is indisputable that the two forms of declaration do not conform with these conditions. In the circumstances, even if any one of the conditions prescribed under Rule 9-A is not satisfied, the seller will not be entitled to a concessional rate. Mr. Rama Rao, however, cited a decision of the Madras High Court in R. Nandalal and Co. v. Government of Madras [1965] 16 S.T.C. 1. The Madras High Court, in our view, was not considering Rule 9-A, but Rule 10, which as framed by that Government is different, and, therefore, the ratio of that decision, even if it supports the contention of the learned counsel, which prima facie we do not think it does, is inapplicable to the facts of the instant case. We have no hesitation in holding that the Board of Revenue was right in disallowing the concession.

5. In this view, this appeal fails and is dismissed with costs. Advocate''s fee Rs. 100.

