
(1962) 01 AP CK 0004

In the Andhra Pradesh High Court

Case No : Special Appeal No. 5 of 1961

Ramakrishna Rice Working Company, Bhattiprolu	APPELLANT
Vs	
The State of Andhra Pradesh	RESPONDENT

Date of Decision : 17-01-1962

Acts Referred:

Constitution of India, 1950 — Article 286(1)

Citation : AIR 1963 AP 238 : (1962) 13 STC 755

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

Bench : Division Bench

Advocate : G.V.R. Mohana Rao, for the Appellant; P. Ramchandra Reddi, Third Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Chandra Reddy, C.J.—This is an appeal against the order of the Commissioner of Commercial Taxes revising that of the Deputy Commissioner of Commercial Taxes, Guntur.

2. The appellant, Messrs. Ramakrishna Rice Working Company, Bhattiprole, returned a net turnover of Rs. 1,12,029-10-0, claiming exemption on a turnover of Rs. 2,65,382-5-6 representing the sales of rice for consumption outside the State. The Commercial Tax Officer disallowed the claim of the appellant for exemption in regard to a turnover of Rs. 2,11,363-8-9 holding that this amount was exigible to tax under Rule 13 of the Turnover and Assessment Rules.

3. Dissatisfied with this order of the Commercial Tax Officer, the appellant went up in appeal to the Deputy Commissioner of Commercial Taxes. This authority ruled that the transactions in question fell under Explanation to Article 286(1)(a) of the Constitution and as such the exemption claimed in regard thereto should be allowed, in this view of the matter, he directed the assessing authority to issue a revised demand notice in that regard.

4. The Commissioner of Commercial Taxes suo motu acting u/s 20(2) of the

Andhra Pradesh General Sales Tax Act, sought to revise the order of the Deputy Commissioner as he felt that the Deputy Commissioner was not right in his opinion in regard to the turnover of Rs. 1,38,229-8-0. Therefore, he issued a notice on 7-4- 1961 to show cause against the proposed revision within seven days from the date of its receipt and informing the appellant that he would be heard on 24-4-1961, if he wished to be heard. This notice was served on the appellant on 13-4-1961. Thereupon, he sent a telegram requesting for fifteen days' time. He was granted time till 1-5- 1961 and he was duly informed of the Board's reference on 29-4-1961. A further request was made for postponing the hearing for another fifteen days in his telegram dated 1-5-1961 and he was granted time till 15-5-61 and he was informed of it by memorandum dated 4-5-1961. On 15-5- 1961, the appellant neither filed any objections nor appeared before the Board. The Board, therefore, considered that the assessee had no objections against the proposed revision and passed the orders now impugned. The appellant sent his objections ten days later, namely, on 27-5-1961. It is that order that is the subject-matter of the challenge in this appeal.

5. In support of this appeal, it is argued by Sri G. V. R. Mohana Rao, learned counsel for the appellant, that the Board erred in thinking that the sales in question were completed within the State and, they were not attracted by the Explanation to Article 286(1)(a) of the Constitution. It is submitted that delivery was made outside the State as a direct result of the sale. The two essential conditions of the explanation sale, namely, (1) sale of goods and (2) delivery thereof outside the State as a term of the contract being satisfied in this case, the sales should be regarded as having taken place in the course of inter-state trade, proceeds the argument of the learned counsel for the appellant.

6. We do not think that we can give weight to this contention. It is true that there was a sale and that the actual delivery of the goods was taken outside the state for consumption. But the question for consideration is whether such a delivery was the direct result of the sale.

7. In the solution of this problem, the facts as emerge from the record should be borne in mind. The appellant sold the goods to certain commission agents, who were acting for the dealers outside the State and received the full price but booked the goods to places outside the State in his own name as consignor and consignee under the instructions of the Commission agents. Immediately, he endorsed the railway receipts in favour of the commission agents. Thereafter, the assessee had no control over them, the risk also having passed on to the commission agents. Nothing remained further to be done by him in furtherance of the contract. It is thus clear that the commission agents bought the rice though for the benefit of foreign dealers and instructed the sellers to send them to places outside the State which amounted to taking delivery before the export of the goods. As soon as the booking was done, the railway receipts were endorsed in their favour and thereafter the assessee had completely disappeared

from the picture. Thus, the whole transaction including the delivery was completed within this State. Hence, the transaction should be regarded as inside sale. In such a situation, it is difficult to postulate that delivery of the goods outside the State was the direct result of the sale. It should be borne in mind that the goods would be delivered outside the State as those of the Commission agents and not of the sellers. That being the real position, the transactions do not contain any inter-State elements.

8. This is the principle enunciated in *Sri Ramakrishna Commercial Society Ltd., Anakapalli and Others Vs. State of Andhra (now Andhra Pradesh)*, and *A.M. Mohammed Ishok Vs. The State of Madras*, . The ruling of this Court in *T. R. C. No. 98 of 1957* called in aid by the appellant has no analogy here. In that case, the assessee put the goods on boat or rail, as the case may be, incurred incidental expenses, obtained bills of lading or railway receipts, prepared the bills in the names of the foreign buyers and handed over the bills and the bills of lading or railway receipts to the forwarding agents. The forwarding agents raised money in the bank on hundies on the basis of the bills of lading or railway receipts, as the case may be, and paid the money to the assesseees. On these facts, it was found by a Bench of this Court, to which one of us was a party, that the transactions partook inter-State character and consequently they fell within the protection afforded by Article 286(1)(a) of the Constitution. It is seen from the facts stated therein that the shipping agents acted as agents of the seller and not of the buyer. The mere fact that the forwarding agents raised monies on the strength of the shipping bills did not make any difference in regard to the character of interstate sales. That is not the situation here. In this case, as already stated, the Commission agents purchased on behalf of their principals residing in other States and they are not the agents of the sellers. Therefore, the rule stated in this case has no application here.

In the result, the appeal is dismissed with costs. Advocate's fee Rs. 100/-. (One hundred only).