(1988) 03 AP CK 0041

In the Andhra Pradesh High Court

Case No : Tax Revision Case No''s. 71 and 72 of 1984

Ravi Agencies APPELLANT

Vs

The State of Andhra Pradesh RESPONDENT

Date of Decision : 07-03-1988

Acts Referred:

Citation : (1989) 74 STC 187

Hon'ble Judges : Y.V. Anjaneyulu, J;G. Ramanujulu Naidu, J

Bench : Division Bench

Advocate : T. Anantha Babu, for the Appellant; Government Pleader for C.T., for the Respondent

Final Decision : Allowed

Judgement

Ramanujulu Naidu, J.—In these two tax revision cases preferred by Messrs. Ravi Agencies, Hyderabad, the question that falls for consideration is whether plastic laminated sheets, the petitioner has been dealing in, fall within the ambit of entry 114 of the First Schedule to the Andhra Pradesh General Sales Tax Act ?

2. The two cases relate to the assessment years 1979-80 and 1980-81. Entry 113 as it stood at the relevant time is as follows :

"Plastic sheets and articles."

3. At the relevant time plastic sheets and articles were taxable at 6 per cent. The sales tax authority however taxed the goods sold by the petitioner at 10 per cent treating the same as goods under entry 114. It reads :

"Lamin board, batten board, hard or soft wall-boards or insulating board and veneered panels, whether or not containing any material other than wood; cellular wood panels, building board of wood-pulp or of vegetable fibre, whether or not bonded with natural or artificial or reconstituted wood being wood shavings, wood chips, saw-dust, wood flour or other ligneous waste agglomerated with natural or artificial resins or other organic binding substance in sheets, blocks, boards or in any other form."

4. It is not denied that up to 31st August, 1976, entry 114 merely read as "Laminated sheets". It was only from 1st September, 1976, the entry as incorporated earlier read. It is, therefore, significant that a clear distinction was drawn by the Revenue between sheets and boards.

5. It is also brought to our notice that plastic sheets were classified by the Central Excise Act, under tariff item No. 15-A(2) and assessed to excise duty accordingly. In fact the certificate issued by the Superintendent, Central Excise, A. R. IV Division-II, Ahmedabad, to the effect that plastic sheets manufactured by Messrs. Viral Laminates Private Limited, Ahmedabad, and supplied to the petitioner are covered under the Central Excise Tariff item No. 15-A(2) attracting Central excise duty at 30 per cent plus 5 per cent special duty on basic duty. We, therefore, see no reason why a different classification in relation to the goods purchased by the petitioner from the manufacturers, namely, Messrs. Viral Laminates Private Limited, Ahmedabad, should be made by the Revenue for the purpose of levying sales tax. We must also observe that the learned Government Pleader has not placed before us any information as to how other dealers in the same goods are being taxed. The impugned orders of the Appellate Tribunal are accordingly set aside. It is needless to observe that the disputed turnover is liable to tax only at 6 per cent. The tax revision cases are accordingly allowed. No costs. Advocate''s fee Rs. 150 in each.

6. Petitions allowed.