
(1964) 06 AP CK 0006

In the Andhra Pradesh High Court

Case No : Tax Revision Case No. 3 of 1963

Rayavarapu Mrityanjaya Rao

APPELLANT

Vs

The State of Andhra Pradesh

RESPONDENT

Date of Decision : 24-06-1964

Acts Referred:

Citation : (1967) 20 STC 417

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

Bench : Division Bench

Advocate : A. Kuppuswamy, for the Appellant; D.V. Sastri, for Third Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

P. Chandra Reddy, C.J.—The order of the Sales Tax Appellate Tribunal is canvassed in this revision case.

2. The petitioner who grows casuarina. appears to have cut the trees into short pieces for purposes of transporting them to places where they could be sold. He claimed exemption in respect of the sale of this casuarina on the basis of the proviso to Section 2(i) of the Madras General Sales Tax Act (the statute that governs the present case). This request of the petitioner was negated by the department as also by the Tribunal in the view that it does not fall within the ambit of the proviso as it stood at the relevant time. It is against this decision of the Appellate Tribunal affirming that of the Assistant Commissioner (C.T.) who in his turn confirmed the assessment made by the Deputy Commercial Tax Officer, that this revision is carried.

3. In this case, it is urged by Sri Kuppuswamy that the instant case attracts the applicability of the proviso and consequently his client is entitled to the exemption contemplated by the proviso. It is convenient at this stage to extract the terms of the relevant proviso, which is as under :

Provided that in the case of a sale by a person of agricultural or horticultural

produce grown by himself or grown on any land in which he has an interest, whether as owner, usufructuary mortgagee, tenant or otherwise, the amount of the consideration relating to such sale shall be excluded from his turnover (when such produce is sold in the form in which it was produced, without subjecting it to any physical or chemical or other process to prepare it for consumption, save mere cleaning and grading or sorting).

4. The portion that is within the brackets was added by Section 2(iii) of the Madras General Sales Tax (Andhra Amendment) Act (16 of 1956). The crucial words that have to be considered are, "in the form in which it was produced without subjecting it to any physical or chemical or other process to prepare it for consumption".

5. Could it be posited in this case that casuarina, that is subjected to tax, is not sold in the form in which it was produced. In our opinion, on the facts found, the answer should be in the affirmative. It could not be postulated that merely because the tree was cut into pieces for the convenience of transport, it would result in the change of the form. We do not feel that it has lost its character as casuarina, merely because each tree is cut into three or four pieces for the purpose of carrying it to places wherever it is marketable. The circumstance that the process of cutting the tree into two or three or even four pieces, does not amount to cleaning, grading or sorting and does not take away the agricultural produce from the ambit of the proviso. The test is whether the form or the character of the produce is altered by the physical or chemical or other process while preparing it for consumption. It is only when the produce loses its original character, then the further question arises whether the physical process is only that of cleaning, grading or sorting. In the absence of any alteration in its original form or character, the fact that the process which the produce undergoes does not amount to cleaning, grading or sorting, would not make any difference.

6. On the facts of this case, we cannot but reach the conclusion that the petitioner is entitled to the benefits of the exemption envisaged in the proviso to Section 2(i) of the Madras General Sales Tax Act.

7. In the result, this tax revision case is allowed. The parties will bear their own costs throughout.