
(1985) 02 AP CK 0017

In the Andhra Pradesh High Court

Case No : T.R.C. No"s. 9, 10, 15 and 17 of 1983

Shah Pratap Chand Kantilal and Co. and Another

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 20-02-1985

Acts Referred:

Andhra Pradesh General Sales Tax Act, 1957 — Section 20

Citation : (1986) 63 STC 312

Hon'ble Judges : P.A. Choudary, J;K. Ramaswamy, J

Bench : Division Bench

Advocate : S.R. Ashok, for the Appellant; The Government Pleader for Commercial Taxes, for the Respondent

Judgement

P.A. Choudary, J.—The petitioner is a dealer in glass marbles and other goods. For the assessment years 1978-79 and 1979-80, the petitioner has purchased glass marbles worth Rs. 1,01,390 and Rs. 78,934 respectively from a registered dealer in the State. The petitioner says, that he paid tax on those purchases at the rate of 6 per cent. under item 123 of the First Schedule of the Andhra Pradesh General Sales Tax Act. Later on, the petitioner in the course of his business, resold those marbles in the State. He says that he did not charge sales tax on the sale bills as they are second sales. He claimed before the Commercial Tax Officer that his sales of glass marbles come under item 123 of the First Schedule of the A.P. General Sales Tax Act (hereinafter referred to as "the Act"). His contention was that glass marbles fall under glassware. That contention was accepted by the Commercial Tax Officer. But the Deputy Commissioner, exercising his revisional jurisdiction u/s 20 of the Act, revised the petitioner's assessment on the ground that the glass marbles are general goods which are subject to tax at 4 per cent. besides the additional tax u/s 5-A of the Act. Against those orders of the Deputy Commissioner, the petitioner filed appeals before the Sales Tax Appellate Tribunal contending that glass marbles fall (a) within the meaning of "glass" in item 123 of the First Schedule of the Act, (b) that they fall within "glass globes" mentioned in sub-item (iv) of item 123 and finally, in any

event, they fall within glassware in sub-item (v) of item 123. These contentions were negated by the Tribunal against which the petitioner has filed this tax revision case.

2. It is contended by Sri Ashok that glass marbles are "glassware", strictly falling under item 123 of the First Schedule of the Act. His contention is sought to be buttressed by reference to the dictionary meaning of the word "glassware", a word which is used in item 123 of the First Schedule. The dictionary meaning of "glassware" is "any article made out of glass". If this meaning of the dictionary is to be accepted, glass marbles made out of glass should certainly be considered as "glassware", falling within the meaning of item 123 of the First Schedule. But the question is, whether we can accept that dictionary meaning. Both in principle and on authority, we find it difficult to agree with the learned counsel's contention. The principle that guides in interpreting these entries in the Act is that the meaning and significance of these entries must be gathered not from the dictionary but from their commercial or even colloquial sense of the terms used in the Act. In the commercial sense, glass marbles, though made out of glass, will not be considered or treated as "glassware". The judgment of the Supreme Court reported in *Indo International Industries Vs. Commissioner of Sales Tax, Uttar Pradesh*, is a clear authority for this rule of interpretation. There, the contention was that clinical syringes, thermometers, lactometers and the like made of glass should be treated as glassware. The Supreme Court has rejected this argument holding that though the dictionary meaning of the expression "glassware" is "articles made of glass"; in commercial sense "glassware" can never comprise articles like clinical syringes, thermometers, lactometers and the like which have specialised significance and utility. The Supreme Court further held that a general merchant dealing in glassware does not ordinarily deal in such articles, which although made of glass are normally available in medical stores. Applying those observations and relying upon the common experience it can safely be said that the purpose, utility and the functions of the glass marbles are wholly different from what is called "glassware". The glass marbles are not generally sold by those who deal in glassware. We therefore hold that the sale of glass marbles would not fall within the entry No. 123 of the First Schedule to the Act.

3. The argument of the learned counsel is that the department has treated the glass marbles as falling under entry No. 123 of the First Schedule to the Act. Even assuming that to be so, we cannot accept that departmental practice, because, there is, in our opinion, no margin of doubt in holding that glass marbles do not fall under "glassware". The judgment of this Court reported in *Mahalakshmi Traders v. Deputy Commercial Tax Officer* [1983] 53 STC 263 also supports this view. In that case, the learned Judges, following an earlier judgment of a Division Bench of this Court in *Shankar Bangle Stores v. State of Andhra Pradesh* [1983] 53 STC 264 held that glass bangles are not "glassware", although undoubtedly, they are made out of glass. For the reasons, we hold that the order of the Tribunal was right and we accordingly dismiss this tax revision

case, with costs. Advocate's fee Rs. 150. Following the above judgment we dismiss T.R.C. Nos. 10, 15 and 17 of 1983, but without costs.

4. Petitions dismissed.