(2001) 09 AP CK 0044

In the Andhra Pradesh High Court

Case No : T.R.C. No. 156 of 2001

Shakthi Seeds Pvt. Ltd. — APPELLANT

Vs

Deputy Commissioner (CT), Abids Division and Another — RESPONDENT

Date of Decision : 10-09-2001

Acts Referred:
Seeds Rules, 1968 — Rule 7

Citation : (2002) 125 STC 387

Hon'ble Judges : S.R. Nayak, J;S. Ananda Reddy, J

Bench : Division Bench

Advocate : S. Krishna Murthy and P. Venugopal, for the Appellant;

Final Decision : Dismissed

Judgement

S.R. Nayak, J.—This T.R.C. is directed against the order of the Sales Tax Appellate Tribunal, A.P. Hyderabad made in T.A. No. 91/96, dated 13.3.2000.

2. M/s. Shakthi Seeds (P) Ltd., the petitioner herein is a private limited company and they are dealers in agricultural seeds, chillies, paddy, sun-flower and other crops. The petitioner has been an assessee and a registered dealer under the Andhra Pradesh General Sales Tax Act, 1956, for short `the APGST Act''. The Commercial Tax Officer, Hyderguda Circle, Hyderabad, framed final assessment orders in respect of the turnovers for the assessment year 1992-93 granting benefit of G.O.Ms.No.604, Rev (S), dated 9.4.1981 and G.O.Ms.No.129 Rev (CT II), dated 14.2.1989. However, the Deputy Commissioner (CT), Abids Division, Hyderabad, the 1st respondent herein, on scrutiny of the assessment finalized by the Commercial Tax Officer vide his proceedings dated 16.12.1993 noticed that the petitioner-dealers after purchasing chillies, paddy and sun-flower from unregistered dealers, sold those goods as "certified and truthfully labelled seeds" and on that basis claimed exemption in terms of G.O. Ms. No.604 Revenue (S), dated 9.4.1981. The 1st respondent therefore proceeded to revise the assessment order and proposed tax on those items as the petitioner effected purchase from unregistered dealers and therefore they are liable to tax as first

purchasers within the State of Andhra Pradesh. Before the Deputy Commissioner (CT), the petitioner dealers contended that they are entitled to exemption in terms of G.O. Ms. No.604, dt. 9.4.1981 treating the seeds as truthfully labelled and certified seeds. In support of their contention, they have also placed reliance on the decision in the case of GURURAJ SEEDS (P) LTD., vs. STATE OF ANDHRA PRADESH & OTHERS (1). The Deputy Commissioner (CT), disallowed the claim of the petitioner and revised the assessment order framed by the Commercial Tax Officer, Hyderguda, Hyderabad. Then the matter was carried before the learned Sales Tax Appellate Tribunal by the petitioner-dealer. The learned Tribunal opining that in order to claim exemption in terms of G.O. Ms. No.604, dated 9.4.1981, the claimant should establish and prove that the seeds in question are certified seeds as well as truthfully labelled seeds and that the petitioner dealer has failed to adduce any satisfactory material and evidence to establish these two conditions for granting exemption in terms of G.O Ms. No.604, dismissed the appeal by its order dated 13.3.2000. Hence, this T.R.C. assailing the validity of the same.

3. Sri. P. Venugopal, learned counsel appearing for the petitioner would strenuously contend that the view taken by the learned Tribunal that both the conditions should co-exist for granting exemption under G.O. Ms. No.604 is not only misreading of the Government Order G.O.Ms.No.604, but also it tantamounts to completely ignoring the clarification issued by the Government itself vide its Memorandum No.13630/CT-II(2)89-19, dated 26.4.1994 whereunder the Government in clear terms has directed the Commercial Tax Departmental authorities that both the certified seeds and or truthfully labelled seeds are entitled to exemption from tax in terms of G.O. Ms. No. 604, dated 9.4.1981. Learned counsel would further contend that it is not permissible for the respondent Department under any circumstance to call upon the petitioner dealer to produce the evidence as regards accuracy or veracity of the declaration reflected in the labeling. In other words, learned counsel would contend that the respondent authorities are bound to accept the declaration incorporated in the label by the petitioner without questioning the accuracy or genuineness of the same under any circumstance.

4. Rule 7 of the Seeds Rules, 1968 reads:

"7. Responsibility for marking or Labeling: When seed of a notified kind or variety is offered for sale u/s 7, each container shall be marked or labelled in the manner hereinafter specified. The person whose name appears on the mark or label shall be responsible for the accuracy of the information required to appear on the mark or label so long as seed is contained in the unopened original container.

Provided, however, that such person shall not be responsible for the accuracy of the statement appearing on the mark or label if the seed is removed from the original unopened container, or he shall not be responsible for the accuracy of the germination statement beyond the date of the validity indicated on the mark or label."

5. If we carefully examine the provisions of Rule 7 of the Rules, it does not leave any doubt in anybody''s mind that the veracity and genuineness of the declaration made by the dealer in the label can be questioned by the respondent regulatory authorities in cases where they have some credible information/ materials to doubt the accuracy or veracity of the labeling. We say this because, Rule 7 itself mandates that the person whose name appears on the mark or label shall be responsible for the accuracy of the information required to appear on the mark or label so long as the seed is contained in the unopened original container. If the power to question the veracity or truthfulness of the declaration contained in the label is denied to the respondent regulatory authorities, it would lead to an incongruous situation where the regulatory authorities will be totally helpless and hapless even in cases where they have credible information that the declaration made in the label by the dealer is not correct or untrue. Such an interpretation, it is trite, would be totally against public interest in general and injurious to the farmers and agriculturists who use the seeds in particular. Therefore, the contention of the learned counsel for the petitioner that the respondent regulatory authorities do not have the power either under the Seeds Act or the Rules framed thereunder to demand evidence in support of the labeling or question the veracity of the labelling is not acceptable to the Court and it is accordingly rejected.

6. Secondly, it is also pertinent in this case to notice that the above contention of the learned counsel before us was not the contention before the learned Tribunal. As could be seen from the impugned order, what was contended before the learned Tribunal was only that the seeds certified and truthfully labelled by the petitioner are of high value and therefore it should be presumed that the said seeds are certified and truthfully labelled and therefore, the exemption provided under G.O Ms. No.604, dated 9.4.1981 should be granted to the petitioner. The learned Tribunal dealing with that specific sole contention raised before it has held:

"In our view both the above contentions cannot be accepted. Because, though certified and truthfully labelled seeds are costlier when compared to the other seeds, it cannot be said that all costly seed is certified and truthfully labelled seed. There are many factors contributing to higher costs of seeds. Some times mere confidence in the farmers that a particular seed from a particular lands of a village will yield better and will contribute to high selling cost of the seeds. Moreover, the production and marketing of the certified and truthfully labelled seeds is an elaborate process spanning 4 to 6 months involving various steps with Seed Certifying Agency and the said procedures. There is no difficulty for the appellants to produce any evidence involving these steps to evaluate such evidence and to consider the claim of the appellant. But, the appellant did not produce any evidence even at this stage."

7. It is not the contention of Sri. P. Venugopal that any evidence was led before

the authorities or before the Deputy Commissioner (CT), who is the revisional authority or before the Tribunal to establish the genuineness and veracity of the labeling. In that view of the matter, no exception can be taken to the opinion recorded by the learned Tribunal.

8. We do not find any merit in the Tax Revision Case and it is accordingly dismissed with no order as to costs.

