(1976) 03 AP CK 0006

In the Andhra Pradesh High Court

Case No : Tax Revision Case No. 60 of 1975

Shanker Rubber Industries — APPELLANT

Vs

The State of A.P. — RESPONDENT

Date of Decision : 02-03-1976

Acts Referred:
Andhra Pradesh General Sales Tax Act, 1957 — Section 9

Citation : (1977) 39 STC 415

Hon'ble Judges : S. Obul Reddi, C.J;Jeevan Reddy, J

Bench : Division Bench

Advocate : S. Dasaratharama Reddi, K.B. Madhava Rao and S.R. Ashok, for the Appellant; A. Mahadev, for the Government Pleader for Commercial Taxes, for the Respondent

Final Decision : Dismissed

Judgement

S. Obul Reddi, C.J.—In this revision, the dispute is only with regard to the tax payable on cycle rickshaw tyres and tubes. According to the petitioner, the rate of tax applicable to cycle rickshaw tyres and tubes is the same as is applicable to tyres and tubes of cycles.

2. Therefore, the only question to be decided in this revision is whether the petitioner is liable to be taxed at a lower rate of 3 per cent on the disputed turnover relating to sales of cycle rickshaw tyres and tubes. In Schedule I of the Andhra Pradesh General Sales Tax Act, there are two items, 15 and 17, which require to be noticed. Item 15 reads : "Tyres and tubes and accessories used therewith made of rubber or other material." The prescribed rate of tax is 9 paise in the rupee. Item 17 reads : "Cycles, their accessories and parts." By G.O. Ms. No. 173 dated 6th February, 1964, issued u/s 9 of the Andhra Pradesh General Sales Tax Act, item 17 is amended so as to include tyres and tubes put to use on cycles. A lower rate of tax is prescribed at the rate of 3 paise in the rupee. What Mr. Dasaratharama Reddi contends is that the petitioner is entitled to the benefit of the above G.O. which fixed the rate of 3 paise in the rupee. The goods that are

not specially covered by item 17 will be covered by item 15. Item 17, as it then stood and after the G.O., deals with only cycles, their accessories and parts and not tyres and tubes referred to in item 15. There is a fundamental and essential difference between cycles and cycle rickshaws. In common parlance as also in commercial sense, they have come to assume different meanings. The designs of the two vehicles are different. The tyres and tubes used for cycle rickshaws are of a different variety and thicker make, which are not ordinarily used for cycles. The fact that the tyres and tubes used for cycle rickshaws could also be used by cyclists is not a ground for holding that cycle tyres and tubes are the same as cycle rickshaw tyres and tubes. The tyres and tubes of cycle rickshaws are manufactured having regard to the weight a cycle rickshaw has got to bear. That is why they are much thicker and made more durable than the cycle tyres and tubes. The prices of cycle rickshaw tyres and tubes are much higher than the prices at which tyres and tubes are sold for cycles. Therefore, it is difficult for us to agree with Mr. Dasaratharama Reddi that cycle tyres and tubes are the same as tyres and tubes used for cycle rickshaws.

3. In the result, we agree with the view expressed by the Tribunal and dismiss the revision with costs. Advocate''s fee Rs. 100.

