(1980) 08 OHC CK 0007

In the Orissa High Court

Case No : S.J.C. No. 107 of 1976

Shantilal Kalidas APPELLANT

Vs

State of Orissa RESPONDENT

Date of Decision : 25-08-1980

Acts Referred:

Orissa Sales Tax Act, 1947 — Section 21(4)

Citation : (1981) 48 STC 560

Hon'ble Judges : R.N. Misra, J;N.K. Das, J

Bench : Division Bench

Advocate : B.P. Chandgotia, K.N. Jena and M.L. Jhunjhunwalla, for the Appellant; The Standing Counsel (Sales Tax), for the Respondent

Judgement

R.N. Misra, J.—Two questions have been referred by the Member, Additional Sales Tax Tribunal, u/s 21(4) of the Orissa Sales Tax Act for opinion of the court, namely :

(1) Whether, in the facts and circumstances of the case, the Additional Sales Tax Tribunal is justified in rejecting the assessee''s contention that glass bangles are unclassified goods and hence taxable at 5 per cent ?

(2) Whether, in the facts and circumstances of the case, the Additional Sales Tax Tribunal is justified in treating glass bangles to come under the purview of entry No. 38 which relates to taxing on glasswares and china-clay goods and therefore the appropriate rate of tax would be 8 per cent ?

2. At the hearing the assessee''s counsel fairly concedes that the questions now raised were directly in issue in the case of Shantilal Kalidas Vs. State of Orissa, where after hearing the parties this Court has come to hold that glass bangles are covered by entry No. 38 of the list of taxable goods. For the reasons given in the said decision with which we agree, we hold in favour of the revenue and against the assessee and answer the first question by saying that the Additional Sales Tax Tribunal was right in holding that glass bangles were not unclassified

goods and were covered by entry No. 38. The second question need not be answered.

There will be no order for costs.

N.K. Das, J.

3. I agree.

