
(1973) 12 KAR CK 0003
In the Karnataka High Court
Case No : S.T.R.P. No. 45 of 1973

S.S. Umadi

APPELLANT

Vs

The State of Mysore and Others

RESPONDENT

Date of Decision : 13-12-1973

Acts Referred:

Central Sales Tax Act, 1956 — Section 10 (d), 10 A, 8 (3) (b)

Citation : (1974) 34 STC 228

Hon'ble Judges : G.K. Govinda Bhat, C.J;M.K. Srinivasa Iyengar, J

Bench : Division Bench

Advocate : K.S. Savanur, for the Appellant; M.P. Chandrakantharaj Urs, for the Respondent

Final Decision : Dismissed

Judgement

M.K. Srinivasa Iyengar, J.—This is a revision petition filed against the order of the Mysore Sales Tax Appellate Tribunal in S.T.A. No. 58 of 1972, whereby a penalty imposed u/s 10A of the Central Sales Tax Act, 1956 (hereinafter called the Act) in a sum of Rs. 1,000 was confirmed.

2. The assessee is a dealer registered under the Mysore Sales Tax Act, 1957, and under the Act he had obtained a registration certificate. u/s 8(3)(b) of the Act he purchased certain goods, namely, colours and chemicals for manufacture or processing of goods for sale on the basis of C form issued. For the years 1958-59 and 1959-60 the assessee had purchased the goods of the value of Rs. 29,277. The goods so purchased, namely, colours and chemicals, had not been used in the manufacture or processing of goods for sale, but were used for the purpose of dyeing yarn brought by the customers. In view of that the Assistant Commercial Tax Officer, Jamkhandi, issued a notice to the assessee to show cause why a penalty u/s 10A of the Act should not be Imposed for offence u/s 10(d) of the Act. The only explanation offered was that in respect of similar contravention for the years 1960-61 and 1961-62 the penalties imposed had been set aside by the High Court and the facts in the instant case were similar.

The Assistant Commercial Tax Officer, however, held that in those orders there was no finding that the misuse was without reasonable excuse and therefore the facts were not similar. He held that there was no reasonable excuse for using these colours and chemicals for dyeing yarn of the customers and not using them for the purpose of manufacturing and processing of goods for sale of the assessee. In that view, he imposed a penalty of Rs. 500 for each of the two years aggregating to Rs. 1,000. This was confirmed on appeal to the Assistant Commissioner of Commercial Taxes and by the Tribunal on a further appeal.

3. It has been contended before us by Sri Savanur, the learned Advocate for the petitioner, that u/s 8(3)(b) of the Act, it is not provided that the use of the goods should be in the manufacture or processing of goods of the assessee himself and as such there was no contravention to make use of the goods for the purpose for which they had been purchased. He stressed that u/s 8(3)(b) of the Act it is not provided that the manufacture or processing of goods should be of the assessee himself. An identical argument was advanced before this Court in W. P. Nos. 847 and 848 of 1968. This argument was repelled observing that from the wordings of Section 8(3)(b) it was clear that the "goods for sale" clearly connote that the goods so processed must belong to the dealer, as otherwise he cannot be said to have the right to sell them. The clause is clear that the manufacture or processing of goods must be for sale and the clear intendment is that the goods for sale must belong to the dealer who has been allowed a concessional rate of tax in regard to the purchase of the goods under C forms. Therefore, there is no substance in the contention urged for the petitioner. On the facts in the case, it is clear that by using the colour and chemicals for dyeing yarn of others, the assessee has consumed the goods under C forms and not used in the manufacture or processing of goods for sale. In the case where goods are purchased for consumption by a dealer, the concessional rate is not applicable. No other contention has been raised before us.

4. Accordingly, the revision petition fails and is dismissed with costs. Advocate's fee Rs. 100.