(1989) 02 AP CK 0022

In the Andhra Pradesh High Court

Case No : Tax Revision Case No. 317 of 1985

State of Andhra Pradesh APPELLANT

Vs

Hyderabad Allwyn Ltd. RESPONDENT

Date of Decision : 01-02-1989

Acts Referred:

Citation : (1990) 78 STC 56

Hon'ble Judges : V. Neeladri Rao, J;B.P. Jeevan Reddy, J

Bench : Division Bench

Advocate : The Government Pleader for C.T. and P.R, for the Appellant;

Judgement

Jeevan Reddy, J.—The only question in this tax revision case is whether the turnover representing warranty and service charges is includible in the turnover of the assessee. The assessee is Hyderabad Allwyn and one of the main lines of its manufacture is manufacture of Allwyn refrigerators. They are sold by the assessee itself. While effecting service, the assessee collects warranty charges. But there are two types of warranties. One is a warranty for a period of one year and the other is a warranty for a period of four years. So far as one-year warranty is concerned, there is no option to the customer. Every person purchasing the refrigerator must necessarily pay the warranty charges for one year. In other words, there will be no sale unless the customer agrees to the warranty for one year and pays warranty charges thereof. But so far as four-year warranty is concerned, it is optional with the purchaser. It is open to the purchaser either to take a four-year warranty by paying warranty charges therefore or not. In these circumstances, the Tribunal held that so far as warranty charges for one-year warranty are concerned, they are includible. But the warranty charges for four-year warranty are not includible. We think the Tribunal was right in holding so. It is clear that so far as four-year warranty is concerned, it is a distinct and separate agreement or contract, as it may be called. The four-year warranty agreement is distinct from the sale agreement. The sale of refrigerators is not dependent upon taking four-year warranty. The

Tribunal was, therefore, right in saying that the warranty charges relating to four-year warranty are not includible in the turnover.

2. The tax revision case is accordingly dismissed. No costs. Advocate''s fee Rs. 150.

3. Petition dismissed.

