

(2011) 02 AP CK 0009

In the Andhra Pradesh High Court

Case No : Tax Revision Case No. 1 of 2011

State of Andhra Pradesh

APPELLANT

Vs

Mysore-I Agarbathi Works

RESPONDENT

Date of Decision : 11-02-2011

Acts Referred:

Andhra Pradesh General Sales Tax Act, 1957 — Section 22(1)

Citation : (2011) 46 VST 457

Hon'ble Judges : V.V.S. Rao, J;Ramesh Ranganathan, J

Bench : Division Bench

Advocate : P. Balaji Varma, for the Appellant;

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, J.—This revision, u/s 22(1) of the Andhra Pradesh General Sales Tax Act, 1957 (the Act), is preferred against the order of the Sales Tax Appellate Tribunal, Hyderabad (STAT) in T. A. No. 542 of 2006 dated September 24, 2009. The respondent herein is an assessee on the rolls of the Commercial Tax Officer, Mahankali Street Circle, Secunderabad. The assessing authority passed a final assessment order, under the Act, for the year 2002-03 on September 2, 2003. Aggrieved thereby, the respondent carried the matter in appeal before the Appellate Deputy Commissioner who, by his order dated October 29, 2003, dismissed the appeal. Aggrieved thereby, the respondent preferred an appeal to the STAT. The question which fell for consideration before the STAT was whether raw-agarbathies were required to be treated as a distinct commercial product as against the agarbathies prepared and sold by the respondent. The STAT, after referring to the judgments of the Supreme Court in Gujarat Steel Tubes Ltd. etc. Vs. State of Kerela and others, and Telangana Steel Industries and others Vs. State of Andhra Pradesh and others, , the judgments of this court in The State of Andhra Pradesh Vs. Sri Durga Hardware Stores and Another,) and Jaya Food Industries Private Ltd. Vs. Commercial Tax Officer, Nampally Circle, Hyderabad, 5, and the judgment of the Gujarat High Court in

State of Gujarat Vs. Shah Veljibhai Motichand, Lunawada, held that it is only if the raw material undergoes some change and a different product emerges would the product be construed as being different; as raw-agarbathies did not become extinct and lose its identity after undergoing the manufacturing process involved in the production of finished scented agarbathies, the purchase turnover relating to raw-agarbathies was not exigible to tax u/s 6A of the Act. The order passed by the Appellate Deputy Commissioner (CT), Secunderabad Division, was set aside.

2. u/s 6A of the Act it is only if the goods purchased have been consumed, the consumption is in the process of manufacture and manufacture is of other goods for sale, would the goods purchased be liable to tax. As rightly held by the STAT, the goods purchased must be subjected to a manufacturing process, and such manufacturing process must result in the emergence of another product, i.e., "other goods" for sale; the use of the words "other goods" signifies another commercial product. The process in which agarbathies are made has been noted by the STAT as (1) raw-agarbathies are prepared by mixing kuppam dust, coal dust powder, gigget power, colours and water. (2) All these ingredients are mixed and a paste is prepared. (3) Thereafter, the paste is rolled on cut bamboo pieces, and agarbathies in raw form are prepared by unregistered or registered dealers. (4) Such raw-agarbathies are purchased by the respondent and, after purchasing the same, they are subjected to a process of manufacture for preparation of finished agarbathies with the application of scent for giving fragrance when they are burnt. The STAT held that the raw-agarbathies are not consumed in the manufacture of finished agarbathies, and they retain their identity even after scent is applied on them and, as such, section 6A of the Act is not attracted. We are in agreement with the well-considered reasoned order of the STAT. The order of the STAT does not suffer from any error of law nor has the STAT failed to decide any question of law. We see no reason, therefore, to exercise jurisdiction u/s 22 of the Act to entertain the revision. The tax revision case is, accordingly, dismissed.