(2014) 03 AP CK 0110

In the Andhra Pradesh High Court

Case No : TRC No. 140 of 2001

State of Andhra Pradesh	APPELLANT
Vs	
Ramakrishna Pharmaceuticals	RESPONDENT

Date of Decision : 12-03-2014

Acts Referred:

Citation : (2014) 58 APSTJ 167

Hon'ble Judges : M. Satyanarayana Murthy, J;Ashutosh Mohunta, J

Bench : Division Bench

Advocate : S. Dwarakanath, Advocate for the Respondent

Judgement

Ashutosh Mohunta, J.—This Tax Revision Case is filed questioning the correctness of the judgment Dt. 30.06.2000 passed by the Sales Tax Appellate Tribunal, Andhra Pradesh, Hyderabad (for short ''STAT'') in T.A. No. 165 of 1996 whereby Arnica Hair Oil has been held to be falling under entry 37 of Schedule-I to the Andhra Pradesh General Sales Tax Act, 1957 (for short ''APGST Act'') and cannot be treated as a cosmetic falling under entry 36 of the same schedule. The short point that arises for consideration is whether Arnica Hair Oil can be treated as a medicine and will fall under entry 37 of the Schedule-I of the APGST Act as a medicine or as cosmetic falling under entry 36 of the APGST Act.

2. A perusal of the impugned judgment shows that the assessee, respondent herein, adduced evidence of the Director of M/s. Rama Krishna Pharmaceuticals and filed a copy of form 26(c) showing that they have obtained licence No. 10/ Drugs(H)/78, and it has been renewed for the period 01.01.1999 to 31.12.2000. A perusal of form 26(c) also shows that respondent had obtained license and that the license was renewed year after year and the respondent had also produced a certificate Dt. 01.02.2000 issued by the Additional Director (Homeo), Indian Medicines and Homeopathy who stated that M/s. Ramakrishna Pharmaceuticals was manufacturing Arnica Hair Tonic for the year 1989-90 and 1990-91 under a valid drug licence.

3. The Tribunal placing reliance on decisions in Bombay Conductors and Electricals Ltd. and another Vs. K. Chandramouli, Under Secretary to the Govt. of India and others, and Indo National Ltd. Vs. State of Andhra Pradesh, held that Arnica Hair Oil is a drug which would fall under entry 37 of APGST Act.

4. We have heard the learned counsel for both parties at length. We are of the considered opinion that since the respondents obtained licence from the Additional Director (Homeo), Indian Medicines and Homeopathy, Arnica Hair Oil would come under the definition of Drug and would fall under entry 37 of APGST Act.

5. Apart from the above, the Hon''ble Supreme Court in Puma Ayurvedic Herbal (P) Ltd. Vs. Commissioner, Central Excise, Nagpur, held that once a licence is taken for manufacturing of a particular drug, then it would fall under the category of drug and not under the category of cosmetic. In view of the said finding, we are of the considered opinion that Arnica Hair Tonic would fall under the category of Drug and would be governed by the entry 37 of the APGST Act and cannot be termed as cosmetic.

6. Accordingly, this Tax Revision Case is dismissed. Consequently, miscellaneous petitions, pending if any, shall stand closed.

