(1994) 03 AP CK 0011

In the Andhra Pradesh High Court

Case No : Tax Revision Cases No''s. 161 and 167 of 1989

State of Andhra Pradesh — APPELLANT

Vs

Southern Steel Ltd. — RESPONDENT

Date of Decision : 02-03-1994

Acts Referred:
Andhra Pradesh General Sales Tax Act, 1957 — Section 20(2), 6

Citation : (1995) 96 STC 452

Hon'ble Judges : T.N.C. Rangarajan, J;M.N. Rao, J

Bench : Division Bench

Advocate : Government Pleader for Commercial Taxes, for the Appellant; P. Srinivasulu Reddy, for the Respondent

Judgement

M.N. Rao, J.—These two tax revision cases raise common questions and so, they are disposed of by this common judgment.

2. T.R.C. No. 167 of 1989 arises out of T.A. No. 626 of 1985 and T.R.C. No. 161 of 1989 out of T.A. No. 178 of 1986. The disputed turnover involved in T.R.C. No. 167 of 1989 is Rs. 1,06,64,589 and in T.R.C. No. 161 of 1989, Rs. 99,09,620. T.R.C. No. 167 of 1989 relates to the assessment year 1980-81 and T.R.C. No. 161 of 1989 relates to the year 1979-80. The Deputy Commissioner (Commercial Taxes), in exercise of his revisional jurisdiction under sub-section (2) of section 20 of the Andhra Pradesh General Sales Tax Act, 1957, (for short "the Act") revised the orders of the assessing authority in both the cases bringing to tax the aforesaid disputed turnovers on the ground that the strips and hoops processed and sold by the assessee were commodities different from what were purchased by the assessee. The assessee carried the matter in appeal to the Sales Tax Appellate Tribunal, which restored the exemption granted by the assessing authority. Aggrieved by that, the State of Andhra Pradesh filed these two revision cases.

3. Sub-item (vi) of entry 2 of the Third Schedule to the Act is in the following terms :

-- Sl. Description of goods Point of levy Rate of No. tax -- 1. .... 2. Iron and steel, that is to say : (i) to (v) .... (vi) sheets, hoops, strips and At the point 4 paise skelp, both black and of first sale in the galvanised, hot and cold in the State. rupee. rolled, plain and corrugated in all qualities, in straight lengths and in coil form, as rolled and in riveted condition; --

4. The Third Schedule deals with exigibility to tax in respect of declared goods. The liability to tax is at the point of first sale in the State and the rate of tax is 4 paise in the rupee. Section 6 of the Act is the charging section under which the declared goods are liable to tax only at the point of sale or purchase specified against each item in the Third Schedule. During the relevant assessment years, the assessee has purchased skelp and strips from M/s. Steel Authority of India Limited and after processing the same in their cold rolling mill varying the width of the strips and reducing the thickness of the skelp, sold the resultant product in rolls. The revisional authority, taking the view that what was sold by the assessee was a different commercial commodity, subjected them to tax at the rates specified in the Third Schedule although in the first instance, when the assessee purchased the hot rolled skelp and strips from M/s. Steel Authority of India Limited, the same suffered tax under the same entry.

5. From a reading of the entry, it is clear that it encompasses four commercial products - sheets, hoops, strips and skelp. What follows after these four words is only the description of these four products. If a sheet is converted into a hoop, there is no difficulty to hold that the resultant hoop should suffer tax following the decision of the Supreme Court in State of Tamil Nadu v. Pyare Lal Malhotra [1976] 37 STC 319. But if the sheet continues to be a sheet with reduced size or if a strip continues to be a strip in smaller size after it is subjected to the process called "cold rolling", it cannot be said that the resultant products fall under different sub-items. The Sales Tax Appellate Tribunal has rightly taken the view :

"Thus, in the context of the language used in this sub-item, it is possible to interpret the sub-item plainly to include all types of strips whether hot rolled or cold rolled."

6. We may also mention that a similar view was taken by a Division Bench of this Court in State of A.P. v. Nagarjuna Steels Limited [1995] 96 STC 451 supra.

7. For the above reasons, both the revision cases fail and accordingly they are dismissed. No costs.

8. Petition dismissed.

