(1994) 07 AP CK 0014

In the Andhra Pradesh High Court

Case No : T.R.C. No. 37 of 1986

State of Andhra Pradesh — APPELLANT

Vs

Standard Packings — RESPONDENT

Date of Decision : 12-07-1994

Acts Referred:
Central Sales Tax Act, 1956 — Section 5, 5(3)

Citation : (1995) 96 STC 151

Hon'ble Judges : S.S. Mohammed Quadri, J;B.S. Raikote, J

Bench : Division Bench

Advocate : Government Pleader for Commercial Tax, for the Appellant; K. Raji Reddy, for the Respondent

Judgement

Syed Shah Mohammed Quadri, J.—The assessee is a manufacturer of jute bags. The bags were sold to mine owners for export of barytes powder. Pursuant to the order of supply the exporter wanted the export the barytes powder in bags to a company in Kuwait. The assessee claimed exemption u/s 5(3) of the Central Sales Tax Act, 1956 (for short "the Act"). The assessing authority rejected the contention. The Appellate Tribunal accepted the contention and set aside the order of assessment on October 10, 1984, in appeal, T.A. No. 22 of 1984.

2. The question that falls for consideration in this tax revision case is whether the sale of gunny bags of the assessee to another dealer, who use them as containers for export of certain goods to a foreign country, shall be deemed to be an export sale within the meaning of section 5 of the Act. The assessment relates to the assessment year 1981-82. Section 5(3) of the Act, as amended and applicable for the assessment year 1981-82, reads as follows :

"Notwithstanding anything contained in sub-section (1), the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India shall also be deemed to be in the course of such export, if such last sale or purchase took place after, and was for the purpose of complying with, the agreement or order for or in relation to such export."

3. To invoke the said sub-section, the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India should be for the purposes of : (1) export and (2) the sale must have been for the purpose of complying with the agreement or order.

4. The Tribunal, considering the facts of the case, recorded the finding that both conditions required to be fulfilled to attract sub-section (3) of section 5 of the Act are present in the instant case. In view of that finding, it allowed the appeal and set aside the order of assessment in respect of the disputed turnover. We do not find any illegality in the order of the Tribunal.

5. The tax revision case is accordingly dismissed. No costs.

6. Petition dismissed.