(1998) 02 AP CK 0013

In the Andhra Pradesh High Court

Case No : Tax Revision Case No. 114 of 1997

State of A.P. APPELLANT

Vs

Bhooratnam and Co. RESPONDENT

Date of Decision : 09-02-1998

Acts Referred:
Central Sales Tax Act, 1956 — Section 6A

Citation : (1998) 02 AP CK 0013

Hon'ble Judges : T.N.C. Rangarajan, J;S.V. Maruthi, J

Bench : Division Bench

Advocate : The Special Government Pleader for Taxes, for the Appellant;

Final Decision : Dismissed

Judgement

S.V. Maruthi, J.—This T.R.C. arises against the order of the Sales Tax Appellate Tribunal in T.A. Nos. 750 of 1995, 751 of 1995 and 752 of 1995.

2. The assessee is a company. The appeal before the Tribunal arose out of the order of the Deputy Commissioner withdrawing the exemption granted by the Commercial Tax Officer, Malkajgiri on the transactions u/s 6-A of the CST Act as stock transfers made by the appellants-firm to its branch situated at Amaravathi, Maharashtra State to which the goods were despatched for the purpose of using them in execution of the works contract.

3. The Tribunal held that the undisputed facts are that the goods were used in the execution of the works contract, i.e., execution of water gravity main in the State of Maharashtra. The contract did not contemplate mere supply of pipes. The entire work is treated as completed only on execution of pipe line work. Payment is to be made on the basis of measured work at which stage the goods are immovable by accretion to the earth. The Tribunal held relying on the judgment of Builders Association of India and Others Vs. Union of India (UOI) and Others, that the turnover is not taxable and is exempted from the Sales Tax Act. Aggrieved by the same, the present revision is filed by the Revenue.

4. The finding of the Tribunal is that the goods were used in the execution of the works contract in Maharashtra. The contract did not contemplate mere supply of pipes. The entire work is treated as completed only on execution of pipe line work. Payment is to be made on the basis of measured work at which stage the goods are immovable by accretion to the earth. In other words according to the finding of the Tribunal, the sale actually took place outside the State and there was no sale inside Andhra Pradesh. There was only stock transfer receipt u/s 6-A of the CST Act. Further the Tribunal followed the judgment of the honourable Supreme Court, in holding that there is no taxable turnover in the State. Therefore, we see no reason to interfere with the order of the Tribunal. Tax revision case is, therefore, dismissed.