
(2004) 11 AP CK 0046
In the Andhra Pradesh High Court
Case No : Tax Revision Case No. 93 of 2004

State of A.P.

APPELLANT

Vs

Hindusthan Shipyard Ltd.

RESPONDENT

Date of Decision : 22-11-2004

Acts Referred:

Andhra Pradesh General Sales Tax Act, 1957 — Section 6A

Citation : (2005) 142 STC 460

Hon'ble Judges : T. Meena Kumari, J;S. Ananda Reddy, J

Bench : Division Bench

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

Final Decision : Dismissed

Judgement

T. Meena Kumari, J.—Questioning the order dated December 23, 2003 passed in T.A. No. 178 of 1999 by the Sales Tax Appellate Tribunal, Hyderabad, the State preferred the present tax revision case.

2. The brief facts of the case are as follows :

The respondent herein, i.e., Hindusthan Shipyard Limited, Visakhapatnam is a registered dealer on the rolls of the Commercial Tax Officer, Chinawaltair Circle, Vizag. The Commercial Tax Officer, Vizag, passed a final assessment order for the year 1990-91 levying tax, inter alia, on a turnover of Rs. 12,66,980 relating to the purchase of water u/s 6-A of the Andhra Pradesh General Sales Tax Act, 1957. Aggrieved by the said final assessment order the respondent herein preferred an appeal before the Deputy Commissioner and the said appellate authority while confirming the final assessment order of the Commercial Tax Officer, Vizag, dismissed the appeal. Against which, the respondent herein filed an appeal before the Sales Tax Appellate Tribunal at Hyderabad in T.A. No. 178 of 1999 and the Sales Tax Appellate Tribunal after considering the material available on record allowed the appeal. Aggrieved by the said order of the Appellate Tribunal the State preferred the present revision case.

3. Before the appellate authority, on behalf of the State, it has been contended that the Visakhapatnam Municipal Corporation is entrusted with the duty of supplying water in its jurisdiction and it is not a dealer doing business under the provisions of the Andhra Pradesh General Sales Tax Act. It has been also contended that as per Section 7A of the Visakhapatnam Municipal Corporation Act, 1979 the Corporation can levy and collect pipeline service charges from every owner or occupier of the premises to which water connection has been given and at such a rate prescribed to the different categories as may be specified.

4. It is further contended by the learned Special Government Pleader before this Court that because the Corporation is collecting minimum charges it cannot be said that the transaction is sale of water but it is providing service of pipeline connection on minimum charges irrespective of the use or otherwise of the water.

5. The Appellate Tribunal after considering the merits of the case has observed that even if the water is supplied in a tanker to the customer at his request the local authority will collect only the transport charges and not the cost of the water or as the price for water supplied and therefore, at no stretch of imagination, it can be said that the consumer purchased the water by paying money to the Municipal Corporation. The Appellate Tribunal has observed that the water charges of Rs. 12,66,980 paid by the Hindusthan Shipyard Limited, the respondent herein, to the Visakhapatnam Municipal Corporation is not eligible for tax under the Andhra Pradesh General Sales Tax Act. In view of the above observations, as there is no material placed before this Court that the Municipal Corporation is selling the water to the respondent for a consideration of price, we do not find any reason to interfere with the order of the Appellate Tribunal and this revision is liable to be dismissed and is accordingly dismissed.

6. The tax revision case is therefore dismissed. No costs.