(1999) 12 AP CK 0103

In the Andhra Pradesh High Court

Case No : Tax Revision Case No. 193 of 1999

State of A.P. APPELLANT

Vs

Shaw Wallace and Co. Ltd. RESPONDENT

Date of Decision : 10-12-1999

Acts Referred:
Andhra Pradesh General Sales Tax Act, 1957 — Section 20

Citation : (2000) 119 STC 334

Hon'ble Judges : P. Venkatarama Reddi, J;E. Eswaraiah, J

Bench : Division Bench

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

Final Decision : Dismissed

Judgement

P. Venkatarama Reddi, J.—This T.R.C. arises out of the order of the Sales Tax Appellate Tribunal allowing the appeal field by the respondent-assesee and setting aside the revisional order of the Deputy Commissioner, C.T., Secunderabad Division, in respect of the assessment year 1991-92.

2. The first item of the disputed turnover relates to the discount. The Deputy Commissioner purported to allocate the discount to the sale price of the bottles and cartons and that of IMFL for the reason that the IMFL attracts higher rate of tax. The Tribunal found that the discount relates only to liquor and not to the container or packing material. The Tribunal found that bottles and cartons were purchased from the market and there is nothing unnatural in confining the discount only to liquor manufactured by the assessee. The sale bills were analysed to come to a finding that the discount did not extend to items other than liquor. This is a finding of fact which does not give rise to any question of law.

3. The second item to dispute is the credit notes allowed as incentives on the sales of IMFL. The Tribunal found that the assessee issued credit notes periodically and within the financial year itself and therefore abatement of price

as a consequence of such credit notes cannot be included in the turnover of the assessee-respondent. The main ground on which the revisional authority subjected this item to tax was that some of the last purchasers (who were also liable to pay tax on last sale), failed to reflect the reduction relatable to credit notes in their net turnover and paid the tax on lesser value only. In other words, some of the purchasers did not declare higher turnover enhanced by the value of the credit notes issued to them. It appears that the said purchasers were assessed to tax on the higher turnovers. The Appellate Tribunal confirmed those assessment. T.R.Cs are now pending. The Deputy Commissioner purported to rely on the observations made by this Court while disposing of the stay application. The Tribunal rightly commented that "the revisional authority extracted from the High Court''s order the contentions advanced on behalf of the purchasers from the appellant and treated them as the observations made by the High Court. The Tribunal commented that it amounted to misreading of the order of the High Court. The Tribunal rightly commented that the High Court only observed that if the tax on differential value was not collected from the appellant, it did not preclude the authorities concerned from collecting the tax from manufacturers. Obviously, such an observation by High Court does not amount to declaration that the respondent-company which is a manufacturer is liable to pay the tax, if the tax is not otherwise legally due from the respondent. Hence, we see no ground to admit the T.R.C. The T.R.C. is dismissed at the stage of admission.

