
(2005) 08 AHC CK 0085
In the Allahabad High Court
Case No : TTR No. (1395) of 1998

The Commissioner, Trade Tax

APPELLANT

Vs

S/S S.K. Glass Traders Pvt. Ltd.

RESPONDENT

Date of Decision : 12-08-2005

Acts Referred:

Citation : (2005) 08 AHC CK 0085

Hon'ble Judges : Prakash Krishna, J

Bench : Single Bench

Advocate : S.C, for the Appellant; Praveen Gupta, for the Respondent

Final Decision : Dismissed

Judgement

Prakash Krishna, J.—The question of taxability of rolled glass is presently involved in the present revision, which relates to the assessment year 1989-90. The dealer/opposite party is carrying on the business of buying and selling glass sheets and hard board.

2. The Asstt. Commissioner (Assessment) by its order dated 15th March, 1994 rejected the claim of the dealer/opposite party that the rolled glass is nothing but a plain, glass and as such in view of exclusion clause in Entry No. 4 of Notification No. ST- 11-5784, dated 7.12.1981 is liable to be taxed as unclassified item. The assessing officer has treated and taxed the rolled glass sheet as different plain glass. The relevant portion of the aforesaid notification is quoted below :-

"All goods and wares made of glass but not including plain glass panes, optical lenses, hurricane lantern chimneys, bottles and phials, glass- beads, clinical syringes, thermometers and scientific apparatus" and instruments made of glass."

3. The Assessing Officer included the rolled glass in all goods and wares made of glass. On appeal the Deputy Commissioner (Appeal) has held otherwise. It has

been held by following its earlier order and order of the Tribunal in appeal No. 493 of 1985, dated 12.7.1991, wherein it has been laid down that figured glass sheet and glass sheet are liable to be taxed as unclassified item. The manufacturing process of both figured glass and glass sheet is the same. It has disapproved the Order of the Assessing Authority that the figured glass (rolled glass) is liable to be taxed as glassware. In further appeal the Tribunal has agreed with the order of the first appellate authority.

4. Heard learned counsel for the parties and perused the record.

5. Sri Praveen Gupta, learned counsel for the dealer/opposite party submitted that rolled glass refers to one of the methods by which sheet glass is manufactured. He submitted that there are various manufacturing process of glass sheets and one of them is known as rolling.

"Rolled Glass" according to Webster's Encyclopedic Unabridged Dictionary of the English language Edition 1987, page 1241, Column- three, means "a sheet of glass made by the extension of molten glass between two rollers."

6. In Encarta Encyclopedia the five basic methods have been mentioned to produce glass sheets. The relevant portion is quoted below :-

"When working glass in its plastic state, basic methods are employed to produce an almost limitless variety of shapes: casting, blow pressing, drawing, and rolling."

C1 Casting

In this process, known to the ancients, molten glass is simply poured into a mold and allowed to cool and solidify. In modern times centrifugal casting processes have been developed in which the glass is forced against the sides of a rapidly rotating mold. Capable of forming precise, lightweight shapes, centrifugal casting is used for the production of television-tube funnels.

C2 Glassblowing

Creating Glass Vessels These men are using the method of glassblowing to create glass vessels. The man on the left is sitting in a chair with a support for his blowpipe. He has already created the initial rough shape and is now refining the molten glass, using a pair of tongs, or jacks. The process he is using is called necking, the technique by which the glassblower creates the neck of a bottle or vase.

The revolutionary discovery that glass could be insufflated and expanded to any shape was made in the third quarter of the 1st century bc, in the Middle East along the Phoenician coast. Glassblowing soon spread and became the standard way of shaping glass vessels until the 19th century. The necessary tool is a hollow iron pipe about 1.2 m (about 4 ft) long with a mouthpiece at one end. The glassblower, or gaffer, collects a small amount of molten glass, called a gather, on the end of the blowpipe and rolls it against a paddle or metal plate to shape

its exterior (marvering) and to cool it slightly. The gaffer then blows into the pipe, expanding the gather into a bubble, or parison. By constantly reheating at the furnace opening, by blowing and marvering, the gaffer controls the form and thickness. Simple hand tools such as shears, tongs (pucellas), and paddles are used to refine the form, often while the glassblower sits in the special "glassmaker's chair," one with extended arms to support the blowpipe. Blown glass can also be shaped with molds: Part-size molds pattern the gather, which is then removed and blown to the desired size. Full-size molds into which the gather is entirely blown impart size, shape, and decoration. Additional gathers may be applied and manipulated to form stems, handles, and feet, or they may be trailed on and tooled for decoration. A shaped bubble can be "flashed" with color by dipping it into molten glass of contrasting color. To make cased glass, a gather is placed within, and fused to, one or more layers of differently colored glass. For finish work and fire polishing at the mouth of the furnace the gather is transferred to a solid iron rod called a pontil, applied opposite the blowpipe, which is then removed. When the pontil is cracked off it leaves a "pontil mark" that may be later ground or polished away.

In 1903 a fully automatic blowing machine was perfected, thereby making mechanical glassblowing possible.

C3 Pressing

Some pressing was involved in the production of, ancient cast wares to ensure that the glass had full contact with the mold. Islamic artisans used simple handpresses to form glass weights and seals. European manufacturers rediscovered the technique in the late 18th century, using it to make decanter stoppers and the bases of stemmed tableware. In the 1820s patents were taken out, particularly in the U.S., that led to the development of fully mechanical pressing. In this process, a gather of glass is dropped into a mold, and a plunger then squeezes the glass between itself and the outer mold and forms the final shape. Both the mold and the plunger may be patterned to impart decorative design to the object being made.

C4 Drawing

Molten glass can be drawn directly from the furnace to make tubing, sheets, fibers, and rods of glass that must have a uniform cross section. Tubing is made by drawing out a cylindrical mass of semifluid glass while a jet of air is blown down the center of the cylinder.

C5 Rolling

Sheet glass, and plate glass in particular, was originally produced by pouring molten glass on a flat surface and, with a roller, smoothing it out prior to polishing both its surfaces. Later it came to be made by continuous rolling between double rollers"

SOURCE---Microsoft (r) Encarta (r) Reference Library 2005.

7. In single roll method, molten glass is poured into a metal table and a single metal roller is used to flatten it into a sheet. In double roll method molten glass is passed between a pair of rotating metal rolls to form the sheet. The sheets thus manufactured are generally used as window glass and is not entirely uniform in thickness because of the nature of the process by which it is made. The variations in thickness distort the appearance of objects viewed through panes of the glass.

8. The traditional method of overcoming such defects has been the use of ground and polished plate glass. Plate glass was first produced at Saint Gobain, France, in 1668, by pouring glass into an iron table and rolling it flat with a roller. After annealing, the plate was ground and polished on both sides, Plate glass is now made by rolling the glass continuously between double rollers located at the end of a forehearth. After the rough sheet has been annealed, both sides of it are finished continuously and simultaneously.

(Source-Microsoft (r) Encarta (r) Reference Library 2005).

9. In view of above rolled glass is one of the process to manufacture plain glass.

10. The learned Standing Counsel could not produce any material contrary to above. In this view of the matter there is no fault in the order of the Tribunal holding rolled glass is nothing but plain glass.

11. The revision is hereby dismissed.