

(1971) 09 AP CK 0018
In the Andhra Pradesh High Court
Case No : T.R.C. No. 60 of 1970

The State of Andhra Pradesh

APPELLANT

Vs

Chennaiah Jannu

RESPONDENT

Date of Decision : 13-09-1971

Acts Referred:

Central Sales Tax Act, 1956 — Section 15

Citation : (1973) 30 STC 193

Hon'ble Judges : Vaidya, J;Sriramulu, J

Bench : Division Bench

Advocate : A. Mahadev, for the Fifth Government Pleader, for the Appellant;

Final Decision : Allowed

Judgement

1. This is a revision u/s 22(1) of the Andhra Pradesh General Sales Tax Act, 1957 (hereinafter referred to as "the Sales Tax Act"). The respondent carries on business in groundnuts, etc. He was assessed finally for the assessment year 1965-66 under the Sales Tax Act on a gross and net turnovers of Rs. 11,73,556.74 and Rs. 3,41,233.85 respectively by the Commercial Tax Officer, Mahaboobnagar, by his order dated 26th December, 1966. The net turnover determined includes a turnover of Rs. 3,23,525.01 which represents the purchase value of groundnuts sold to non-resident dealers in the course of inter-State trade. The respondent took the matter in appeal before the Assistant Commissioner of Commercial Taxes, Anantapur, disputing the assessment on a turnover of Rs. 3,23,525.01. The Assistant Commissioner dismissed the appeal. A further appeal was taken to the Sales Tax Appellate Tribunal which, following its earlier common order in T.A. No. 42 of 1968, etc., dated 23rd September, 1968, allowed the appeal. The Tribunal held that in respect of declared goods, tax could be levied and collected only under the Central Sales Tax Act, 1956, and not under the State Act and any assessment made under the Sales Tax Act is wrong in law. The present revision is against the order of the Tribunal.

2. The question for consideration is whether, in the case of declared goods, no

tax can be levied under the Sales Tax Act. To determine this question, it is necessary to consider the provisions of Section 15 of the Central Sales Tax Act which reads:

Every sales tax law of a State shall, in so far as it imposes or authorises the imposition of a tax on the sale or purchase of declared goods, be subject to the following restrictions and conditions, namely :-

(a) the tax payable under that law in respect of any sale or purchase of such goods inside the State shall not exceed three per cent, of the sale or purchase price thereof, and such tax shall not be levied at more than one stage ;

(b) where a tax has been levied under that law in respect of the sale or purchase inside the State of any declared goods and such goods are sold in the course of inter-State trade or commerce, the tax so levied shall be refunded to such person in such manner and subject to such conditions as may be provided in any law in force in that State.

3. A reading of this section shows that if a State makes a law for the purpose of imposing sales tax on declared goods, it has to conform to certain conditions and restrictions laid down in that particular section. The first condition is that the rate of sales tax shall not exceed three per cent, of the sale or purchase price thereof, and such tax shall not be levied at more than one stage. The second condition is that if the tax is levied under a State law in respect of the sale or purchase inside the State of any declared goods and such goods are sold in the course of inter-State trade or commerce, the tax so levied shall be refunded to such person in such manner and subject to such conditions as may be provided in any law in force in that State. In Section 15 of the Central Sales Tax Act, there is no bar to the levy of sales tax by a State on declared goods. It has, therefore, to be seen whether Section 6 of the Sales Tax Act which provides for levy of sales tax on declared goods conforms to the conditions laid down in Section 15 of the Central Sales Tax Act. Section 6 of the Sales Tax Act reads :

Notwithstanding anything contained in Section 5, the sales or purchases of declared goods by a dealer shall be liable to tax at the rate, and only at the point of sale or purchase specified against each in the Third Schedule on his turnover of such sales or purchases for each year irrespective of the quantum of his turnover in such goods; and the tax shall be assessed, levied and collected in such manner as may be prescribed :

Provided that where any such goods on which a tax has been so levied are sold in the course of inter-State trade or commerce, the tax so levied shall be refunded to such person in such manner and subject to such conditions as may be prescribed.

4. By this section, the tax is to be levied at the point of sale or purchase and at the rate mentioned in the Third Schedule. Item 6 of the Third Schedule to the Sales Tax Act in respect of groundnuts fixes the rate at three paise in the rupee

and the point at which the tax is to be levied has been shown to be "when purchased by a miller other than a decortivating miller in the State, at the point of purchase by such miller and in all other cases at the point of purchase by the last dealer who buys in the State." The provisions, therefore, clearly show that the rate does not exceed three per cent, which is one of the conditions laid down in Section 15 of the Central Sales Tax Act and also the tax is not levied at more than one point, the second condition imposed in Section 15. Further, a provision has also been made in Section 6 that in case the goods are sold in the course of inter-State trade or commerce, the tax so levied shall be refunded to such person, in such manner and subject to such conditions as may be prescribed. Thus, it is seen that Section 6 conforms to Section 15 of the Central Sales Tax Act and does not go contrary to that section. As already pointed out by us, Section 15 does not lay down that the sales tax on declared goods can be collected only under the Central Sales Tax Act and not under the State Act.

5. We, therefore, find that the Tribunal has committed an error when it came to the conclusion that tax on declared goods can be collected only under the Central Sales Tax Act and not under the Sales Tax Act. We, therefore, decide and hold that tax can be levied u/s 6 of the Sales Tax Act on groundnuts which are one of the declared goods.

6. In the result, the revision is allowed. No order as to costs. Government Pleader's fee Rs. 100 (Rupees one hundred only).