
(1978) 12 AP CK 0006

In the Andhra Pradesh High Court

Case No : Tax Revision Case No. 82 of 1977

The State of Andhra Pradesh

APPELLANT

Vs

Pottimurthy Subbarao and Co.

RESPONDENT

Date of Decision : 20-12-1978

Acts Referred:

Citation : (1979) 44 STC 19

Hon'ble Judges : A. Sambasiva Rao, C.J.; Ramanujulu Naidu, J

Bench : Division Bench

Advocate : Government Pleader for Commercial Taxes, for the Appellant; D. Sudhakara Rao, for the Respondent

Final Decision : Dismissed

Judgement

A. Sambasiva Rao, C.J.—The point that is raised in this tax revision case, preferred by the revenue, is very simple. It relates to the meaning of the word "miller" used in item 6 of the Third Schedule of the Andhra Pradesh General Sales Tax Act.

2. The assessee purchased groundnut and got it decorticated. However, they (the assessee-firm) did not own any groundnut mill, nor are they lessees of any such mill. They only got the groundnuts decorticated in other mills. Part of the groundnut they got crushed into oil in some mill, which would be engaged for individual transactions on hire. To the extent that they got the groundnut crushed into oil and cake they have already been assessed and the tax has been paid separately by them. Now the dispute is about the turnover in respect of the sales of remaining groundnut kernel effected by them to other millers in the State in the form of groundnut kernel itself. The assessing authority and the appellate authority levied tax on this latter turnover treating the assessee as "miller" within the meaning of item 6. The assessee's contention is that it is not a miller because it does not own any mill nor has it hired anyone. Its contention was upheld by the Tribunal and, consequently, the revenue has preferred this tax revision case.

3. The material entry, which relates to levying tax on groundnut, is item 6 of the Third Schedule to the Act. It reads:

Groundnut or peanut. 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.

4. It was admitted before the Tribunal and also before us and, in fact, even by the assessing authority and the appellate authority that the case of the assessee does not come under the second limb of the above item No. 6. The department seeks to assess him as a miller. The question in the circumstances stated above is whether the assessee is a miller.

5. The expression "miller" is not defined in the Act. The dictionary meaning of "miller" is one who owns or works a mill either as a tenant or a proprietor. That is also the meaning accepted by two Division Benches of this Court in *State of Andhra Pradesh v. Lakshmi Oil Mills* [1967] 20 S.T.C. 489 and *M. Madar Khan and Co. Vs. Assistant Commissioner (C.T.), Ananthapur and Others*, Lest it might be understood that there might be apparent conflict on this aspect of the matter, we might as well extract the following passage from the latter decision, which occurs at page 142:

We think that all the deeming and adding can and should be avoided by literally construing the word "miller" to signify a person functioning as a miller, that is to say, who converts groundnuts into oil.

5. Therefore, there is no doubt that a miller, as it is used in item 6 of the Third Schedule, is a person, who owns or works a mill either as a tenant or as a proprietor. As far as the present assessee is concerned, he neither owns a mill nor takes a mill on lease. The assessee just engages a crushing mill on occasions for crushing a part of his groundnut kernel. He cannot therefore be treated as a "miller" within the meaning of item 6. This conclusion is further supported when we read the word "miller" in conjunction with the following words: "other than a decortivating miller". Thus, the view taken by the Tribunal that the assessee does not come under the first limb of item 6 also is quite right.

6. In the result, we uphold its decision and dismiss this tax revision case, preferred by the revenue, with costs. Advocate's fee Rs. 150.