(1976) 03 AP CK 0013

In the Andhra Pradesh High Court

Case No : Tax Revision Case No''s. 58 and 59 of 1975

Vijaya Scientific Equipments APPELLANT

Vs

The State of A.P. RESPONDENT

Date of Decision : 02-03-1976

Acts Referred:
Central Excises and Salt Act, 1944 — Section 6, 8

Citation : (1977) 39 STC 461

Hon'ble Judges : S. Obul Reddi, C.J;Jeevan Reddy, J

Bench : Division Bench

Advocate : S. Dasaratharama Reddi and S.R. Ashok, for the Appellant; A. Mahadev, for the Government Pleader for Commercial Taxes, for the Respondent

Final Decision : Dismissed

Judgement

S. Obul Reddi, C.J.—These two revisions are directed against a common order of the Sales Tax Appellate Tribunal dismissing the appeals preferred by the petitioner in respect of two assessment years.

2. The only question, which was canvassed before the Tribunal and also before us, is that the benefit of the unamended Sub-section (2) of Section 6 of the Central Sales Tax Act will apply to sales effected by the petitioner to the Government institutions, notwithstanding the fact that there is no reference to "Government" as a dealer or a, registered dealer in that sub-section. The transactions related to the sale of scientific apparatus to the departments of the Government in the course of inter-State trade and commerce. The petitioner claimed exemption on the ground that sales to the Government should also be deemed to be sales to registered dealers and hence come within the purview of the unamended Sub-section (2) of Section 6. That plea of the assessee was not acceptable to all the authorities below.

3. Mr. Dasaratharama Reddi, the learned counsel appearing for the petitioner, contended that failure to refer to "Government" in Sub-section (2) of Section 6 is

only an accidental omission and that is evident from the language of the amended Sub-section (2) of Section 6. He, therefore, says that the unamended Sub-section (2) of Section 6 should be so construed as to give the benefit of exemption of sales effected to the Government also in the course of inter-State trade and commerce. We are unable to agree with Mr. Dasaratharama Reddi that the omission to specifically mention "Government" in Sub-section (2) of Section 6 is accidental. If the legislature had accidentally omitted to cover the sales effected to the Government also, then the amended Sub-section (2) of Section 6 would have been made retrospectively applicable. That apart, a reading of Section 8 would further clarify the position. In this Section, it is specifically provided that the concessional rate of tax will be applicable to all inter- State sales made either to the Government or to other registered dealers, whereas in Sub-section (2) of Section 6, the exemption is only in regard to sales effected to registered dealers. It cannot, therefore, be said that the omission to refer to "Government" in the unamended provision of Sub-section (2) of Section 6 is accidental. By Act No. 31 of 1958, the Central Sales Tax Act was amended introducing the unamended Sub-section (2) of Section 6 and also making amendments to Section 8. Therefore, when both amendments were made simultaneously maintaining the distinction between the sales effected to the registered dealers in Sub-section (2) of Section 6 and sales effected to the Government and also registered dealers in Section 8, it cannot be said that the omission is accidental.

4. We, therefore, agree with the findings recorded by the Tribunal and dismiss the revisions with costs. Advocate''s fee Rs. 100 in each.