

State of Andhra Pradesh Vs. Sharma Traders

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Court : Andhra Pradesh

Decided On : Jan-25-1989

Reported in : [1989]73STC193(AP)

Judge : B.P. Jeevan Reddy and ;V. Neeladri Rao, JJ.

Acts : Central Sales Tax Act - Sections 6(2) and 20(2); Central Sales Tax (Registration and Turnover) Rules, 1967 - Rule 12(7)

Appeal No. : T.R.C. No. 207 of 1985

Appellant : State of Andhra Pradesh

Respondent : Sharma Traders

Advocate for Pet/Ap. : The Government Pleader for the C.T. Department

Judgement :

V. Neeladri Rao, J.

1. For the assessment year 1977-78, the Commercial Tax Officer granted exemption in regard to the turnover of Rs. 1,95,516.42 in regard to the disputed turnover under section 6(2) of the Central Sales Tax Act even though E-I forms were not produced. Then the Deputy Commissioner (CT), Visakhapatnam, in Rc. 1340/80-A8 dated 15th June, 1981 revised the said order under section 20(2) by holding that it is exigible to tax as E-I forms were not produced. Then the assessee

produced E-I forms before the Assistant Commercial Tax Officer. The Appellate Tribunal held that as the order of the assessing authority was revised by the Deputy Commissioner (CT), it is not for the Assistant Commercial Tax Officer to consider the same. Hence the matter was remitted to the Deputy Commissioner to consider the E-I forms filed by the assessee.

2. By referring to rule 12(7) of the Central Sales Tax (Registration and Turnover) Rules, 1967, the learned Government Pleader urged that an assessee is entitled for exemption in regard to the turnover covered by section 6(2) of the Central Sales Tax Act on production of E-I forms before the computation of the assessment but not later, and that is the short point for consideration in this T.R.C.

3. Rule 12(7) of the Central Sales Tax (Registration and Turnover) Rules, 1967 reads thus :

'The declaration in form 'C' or form 'F' or the certificate in form 'E-I' or form 'E-II' shall be furnished to the prescribed authority up to the time of assessment by the first assessing authority : Provided that if the prescribed authority is satisfied that the person concerned was prevented by sufficient cause from furnishing such declaration or certificate within the aforesaid time, that authority may allow such declaration or certificate to be furnished within such further time as that authority may permit.'

4. After considering the said provision, this Court held in *Rajeswari Stone Polishers v. State of Andhra Pradesh* [1983] 52 STC 268 that where an appeal is pending against the order of assessment - it is immaterial whether the appeal is confined only to the rate of tax under the Act or whether it involves other issues besides the rate of tax under the Act - the appellate authority does have the power to receive the forms, on proof of sufficient cause as contemplated by rule 12(7) of the Central Sales Tax (Registration and Turnover) Rules, 1957. Of course the above decision was given in relation to C forms. But rule 12(7) refers not only to C forms but also to E-I forms and some other forms. Thus in view of the above decision, it can be held that E-I forms produced even subsequent to the finalisation of the assessment before the first assessing authority can be looked into, if sufficient cause as contemplated by rule 12(7) is established. In view of the same,

this point has to be held in favour of the assessee.

5. Hence, we do not find any reason to interfere with the order of the Tribunal. So this T.R.C. is dismissed. No costs. Advocate's fee Rs. 160.

6. Petition dismissed

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