

Srirama Engineering Co. Vs. the State of Andhra Pradesh

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Court : Andhra Pradesh

Decided On : Nov-25-1975

Reported in : [1977]40STC136(AP)

Judge : Kondaiah and ;Gangadhara Rao, JJ.

Appeal No. : Tax Revision Case No. 12 of 1974

Appellant : Srirama Engineering Co.

Respondent : The State of Andhra Pradesh

Advocate for Def. : A. Mahadev, Adv. for ;Government Pleader for Commercial Taxes

Advocate for Pet/Ap. : T. Anantha Babu, Adv.

Disposition : Petition dismissed

Judgement :

Kondaiah, J.

1. This tax revision case by the petitioner-assessee under Section 22(1) read with Rule 40 of the A. P. General Sales Tax Act and Rules gives rise to the following question :

Whether, on the facts and in the circumstances, the distribution boxes manufactured and sold by the assessee to the A. P. State Electricity Board are accessories to the electrical goods within the meaning of item 37 of the First Schedule of the Act ?

2. In order to appreciate the scope of the question, it is necessary to briefly state the material facts that gave rise to the same. The assessee company, who deals in iron goods, manufactures distribution boxes among others which are specifically designed to fit in meters, fuses and cleats as required by the Electricity Board on whose order these boxes have been made with specific dimensions. For the assessment year 1968- 69, i. e., the corresponding accounting year ending with 31st March, 1969, the turnover pertaining to the sale of distribution boxes was Rs. 8,58,281. The Commercial Tax Officer, Vijayawada, accepting the contention of the assessee that the distribution boxes are only iron goods which are liable to be taxed at the rate of 3 1/4 per cent, completed the assessment on such basis and raised a tax demand of Rs. 27,895.13 by his order dated 22nd May, 1969. The Deputy Commissioner (C. T.), Guntur, by virtue of his powers under Section 20 of the A. P. G. S. T. Act, issued a show cause notice on 5th February, 1971, as to why the turnover of Rs. 8,58,281 pertaining to the sale of distribution boxes should not be treated as accessories to electrical goods within the meaning of item 37 (as it stood then) of the First Schedule which attracts the rate of tax at 7 1/4 per cent instead of 3 1/4 per cent applicable to iron goods.

3. After service of notice on the assessee on 25th June, 1971, the assessee submitted its explanation on 18th December, 1971, contending, inter alia, that there was no under-assessment or escapement of the assessment of the turnover in dispute and the assessing authority had rightly treated the disputed turnover as coming under the category of iron goods and there is no valid or justifiable ground for revising the same. After due and proper enquiry and reasonable opportunity afforded to the assessee, the Deputy Commissioner by his order dated 20th April, 1972, revised the assessment order of the Commercial Tax Officer holding that the turnover of Rs. 8,58,281 must be taxed at the rate of 7 1/4 per cent applicable to the items under entry 37 of the First Schedule as the distribution boxes are accessories of the electrical goods and, consequently, directed the assessing

authority to issue the revised demand notice.

4. Aggrieved by the decision of the Deputy Commissioner, the assessee preferred an appeal, T. A. No. 379 of 1972, to the Sales Tax Appellate Tribunal. The Appellate Tribunal disposed of this appeal and some others on similar point by a common judgment dated 12th February, 1974. The Tribunal, on a consideration of the entire material on record, agreed with the view expressed by the Deputy Commissioner and dismissed the appeals. Hence, this revision petition.

5. Mr. T. Anantha Babu, the learned counsel for the assessee-petitioner, contended that the distribution boxes manufactured and sold by his clients are not accessories of electrical goods and, even if they are accessories, they are also containers and in which event the disputed turnover must be liable to sales tax at the lower rate applicable to the rate of container and the view taken by the Tribunal is erroneous and illegal. This claim of the assessee is resisted by Mr. Mahadev, the learned counsel appearing for the respondent, contending, inter alia, that the distribution boxes which are specifically designed to fit in the meters, fuses and cleats can only be called accessories to electrical goods, but they are not containers and, therefore, there is no merit in this case.

6. Before advertng to the facts found by the Tribunal which is the final fact-finding authority, we may usefully refer to the law applicable to accessories. The terms 'accessory' and 'container' are not defined under the Act or the Rules made thereunder. As ruled by the Supreme Court in *Ramavatar Budhaiprasad v. Assistant Sales Tax Officer* [1961] 12 S.T.C 286 (S.C.), these terms must be construed not in any technical sense but as understood in common parlance. In other words, these terms must be construed in their popular sense meaning 'that sense which people conversant with the subject-matter with which the statute is dealing would attribute to it'. Therein it was held that 'betel leaves' are not vegetables.

7. In *K. V. Narasimulu v. State of Andhra Pradesh* [1971] 27 S.T.C. 178, a Division Bench of this Court had to consider the question whether wooden casings and reapers used in electrical wiring fell within the ambit of the expression 'all other accessories' of electrical goods mentioned in item 37 of the First Schedule to the

Act. It is held that wooden casings and reapers used in electrical wiring fall within the meaning of the expression 'all other accessories' but 'gattis' are not accessories. Therein, the meaning of the term 'accessories' as given in the Oxford English Dictionary, Chambers's Dictionary and Webster's New International Dictionary have been taken into account as the word 'accessory' has not been defined in the Act. According to the dictionary meanings, an accessory is something which contributes in a subordinate degree to a general result or effect. In other words, it is something extra added to help in a secondary way. It is also an object or device that is not essential in itself but that adds to the beauty, convenience or effectiveness of something else. The learned Judges also took into account the fact that the reapers and wooden casings were made to specifications as required by the Andhra Pradesh Electricity Department. This decision is an authority for the proposition that anything which is an additional fixture and which results in effective enjoyment and user of the main item can be said to be an accessory.

8. The Mysore High Court in *N. A. V. Naidu v. Commissioner of Commercial Taxes* [1970] 25 S.T.C. 381 took the view that printing types were not accessories of printing machine. In *Sales Tax Commissioner v. Lachman Singh* [1972] 30 S.T.C. 372, the Allahabad High Court held that oil-cans or steel files may not be adjuncts but certainly they are accompaniments of a chaff-cutter as they contribute in a subordinate degree to a general result or effect. They were, therefore, held to be accessories. Similarly, the Madras High Court in *Khetty Traders v. State of Madras* [1973] 32 S.T.C. 346 expressed the view that car seat covers are accessories of motor vehicle.

9. With this legal background, we shall examine the facts of the present case. The Tribunal, on a consideration of the evidence on record, found in paragraph 28 of its judgment, thus :.from the letters and affidavits of the appellants, already extracted above, it is clear that the boxes were essential for enclosing and protecting the fuses, etc. They do contribute to the safety and effective use of the power as can be seen for instance in the letter dated 18th December, 1971, of M/s. Sri Rama Engineering Co., wherein distribution boxes were described as :

'Distribution boxes : These boxes are made with 16 gauge M. S. iron sheet bended on three sides like a box with suitable holes for fitting the cleats and screws of meter boards and fuses fixed on the street poles mainly to cover it from rainy water'.

For that reason, in our opinion, distribution boxes are liable to be taxed under item 37 of the First Schedule to the State Act.

10. The aforesaid finding that 'the distribution boxes in question which have been made on specific directions of the Electricity Board for a specified purpose are really essential for enclosing and protecting meter boards, fuses and cleats and they do contribute to the safety and effective use of power' is one of fact, which is binding on us. We do not see any justification to interfere with this finding. It is amply supported by the evidence and material on record. Nor can it be said that such finding is not permissible on the evidence on record. It is also not perverse. Applying the concept and content of the expression 'other accessories', we have no hesitation to hold that the distribution boxes would certainly fall within the ambit of the expression 'all other accessories' within the meaning of item 37 of the First Schedule and the turnover pertaining to the sales of those boxes would certainly attract the sales tax at 7 1/4 per cent as found by the Deputy Commissioner and the Tribunal.

11. The decisions cited by Mr. Anantha Babu may now be adverted to. In *Indian Hume Pipe Co. Ltd. v. State of U. P.* [1972] 29 S.T.C. 487, the Allahabad High Court had to consider the scope of the expression 'sanitary fittings' ; whereas the Bombay High Court in *Commissioner of Sales Tax v. Dawoodbhoy M. Tayabally* [1975] 36 S.T.C. 291 held that glass sheets cannot be said to be glassware. In *State of Andhra Pradesh v. Indian Detonators Ltd.* [1971] 28 S.T.C. 84, a Division Bench of this Court held that 'electric detonators' are not electrical goods within the meaning of entry 37 of the First Schedule, as in common parlance detonators by its nature and function cannot be said to be electrical goods. In *J. B. A.-O., Electrodes, Pvt. Ltd. v. Commissioner of Sales Tax* [1972] 30 S.T.C. 337, the Madhya Pradesh High Court held that electrodes used for welding purposes are not electrical goods. The same view has been reiterated by the Allahabad High

Court in Commissioner of Sales Tax v. B. C. M. Franklin and Co. [1973] 31 S.T.C. 251. In Commissioner of Sales Tax v. Free India Cycle Industries [1970] 26 S.T.C. 428, it fell for consideration whether rexine saddle covers of bicycles, cycle rickshaws, perambulators and parts were accessories thereof. The court held that 'the rexine saddle cover is neither a part nor an accessory of the vehicle but an article used for the protection and decoration of one of the parts of the vehicle.

12. The aforesaid cases relied upon by the learned counsel, therefore, are distinguishable on facts and the same cannot be applied to the present case wherein we are concerned with accessories. We may add that each case depends upon its own peculiar facts. The principle, whether a particular item in a given case is an accessory or not as could be gathered from decided cases, can only be applied. From the facts found by the Tribunal in the present case, we have no hesitation to hold that the distribution boxes would certainly fall within the meaning of 'all other accessories' in item 37 of the First Schedule. The Andhra Pradesh Electricity Department Manual (Appendix 4, at page 177) indicates detailed instructions pertaining to the preparation of the boxes. Admittedly, the assessee is manufacturing the distribution boxes to the general specifications required by the Electricity Board. They have been specifically designed for a particular purpose, the purpose being to usefully and conveniently fit in the meters, fuses, cleats and screws for the safe and effective use of the power and such boxes are essential for enclosing and protecting the same from rainy water and other vicissitudes of nature. These distribution boxes can under no circumstances be treated as containers as contended by Mr. Anantha Babu. A container, in the ordinary parlance, cannot be considered to be a distribution box manufactured for a specific purpose with a particular metal which required specifications. A container is one which can be normally used for storing or carrying any article or goods. The distribution box would always be with the meter, fuses, cleats, screws and others. It would not be separate. Even assuming that a meter can be used without the distribution box, from the nature and character of the distribution box, we must hold that it is a necessary adjunct without which the meter cannot be effectively, safely and usefully made use of. In these circumstances, we see no reason to interfere with the decision of the Tribunal and the T. R. C. merits dismissal and is hereby dismissed with costs.

