Vadlaputi Traders Vs. the State of Andhra Pradesh

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Court : Andhra Pradesh

Decided On : Jun-15-1988

Reported in : [1988]71STC419(AP)

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

Appeal No. : Tax Revision Case No. 78 of 1985

Appellant : Vadlaputi Traders

Respondent : The State of Andhra Pradesh

Advocate for Def. : The Government Pleader for Commercial Taxes

Advocate for Pet/Ap. : P. Srinivasa Reddy and ;S. Dasaratharama Reddi, Advs.

Judgement :

Jeevan Reddy, J.

1. The petitioner is a dealer in gingili seeds. For the assessment year 1981-82, he filed a return declaring his turnover. Gingili seeds are taxable at the first purchase point in the State. In his return he showed the value of the gingili seeds purchased as Rs. 9,05,498.85. On a perusal of the accounts, the assessing authority found that the petitioner has incurred an expenditure of Rs. 33,498.97 in connection with the purchase of the said seeds, which the dealer did not include in his turnover. He proposed to include the same in the turnover on the ground that the said amount

represents pre-sale expenses. The petitioner submitted an explanation contending that the weighment charges, cost of packing material, brokerage and gunnies are not pre-sale expenses, but post-sale expenses. He also submitted that the market-fee paid cannot also be included in the turnover since it is paid directly by him to the market-committee. The assessing authority rejected the petitioner's contention on the ground that the petitioner has not maintained separate kathas for expenses incurred prior to purchase and afterwards. He observed that these expenses are pre-sale expenses and therefore become part of the turnover. The same view was taken on appeal by the first appellate authority. On further appeal, the Tribunal agreed with the petitioner only to the extent of market-fee but rejected the contention with respect to other expenses, on the ground that the assessee not having maintained separate accounts showing pre and post-purchase expenses there is no material to show the nature of the expenses. In other words, the Tribunal was of the opinion that there is no material produced by the assessee to show that the said expenses were post-sale expenses. The Tribunal also observed that since the petitioner has exported the entire quantity purchased, the question of claiming any exemption from purchase tax does not arise.

2. In this tax revision case it is contended by Shri Srinivasa Reddy, the learned counsel for the petitioner, that unless there was material to show that the expenses on account of brokerage, packing and gunnies were included in the bill prepared by the seller of the said goods or that they were charged by the seller of the said goods, it cannot be said that these expenses must be included within the turnover or within the purchase price. He submits that the brokerage was paid to a third party directly by the purchaser and similarly the gunnies and packing were provided by the purchaser at his own cost after the sale. We, however, find that the grounds now urged were not urged in this form before any of the authorities below. The assessing authority gave a show cause notice proposing to include the said amount in the turnover on the ground that they are pre-sale expenses and the only ground upon which the petitioner objected thereto was that they are not pre-sale expenses but post-sale expenses. Since the petitioner could not place any material or his account books in support of his contention his objection was overruled and the said amount included in the turnover. It was never argued before any of the authorities that these expenses were not included in the bill of

sale or that they were not charged by the seller or that they were directly or independently paid to third parties, as the case may be. On the factual situation, therefore, we cannot allow the petitioner's counsel to raise this new plea since there is no basis for raising the said plea on facts. On the basis the matter has been proceeded with until now, we must hold that the Tribunal was right in rejecting the petitioner's contention on the ground that the petitioner, not having maintained accounts properly showing the pre-sale and post-sale expenses, cannot sustain his objection. Indeed, there is nothing to show whether the goods were sold in gunnies or packages, nor is there any material to show that the brokerage was paid directly by the petitioner to the broker. The contentions now urged cannot therefore be entertained. The tax revision case accordingly fails and it is dismissed. No costs. Advocate's fee Rs. 150.

3. Petition dismissed.