

Universal Radiators Ltd. Vs. State of Andhra Pradesh

Universal Radiators Ltd. Vs. State of Andhra Pradesh

SooperKanoon Citation : sooperkanoon.com/432364

Court : Andhra Pradesh

Decided On : Sep-24-1987

Reported in : [1989]73STC120(AP)

Judge : K. Bhaskaran and ;Y.V. Anjaneyulu, JJ.

Appeal No. : Tax Revision Case No. 223 of 1987

Appellant : Universal Radiators Ltd.

Respondent : State of Andhra Pradesh

Advocate for Def. : Government Pleader for Commercial Taxes

Advocate for Pet/Ap. : P. Venkatarama Reddy, Adv.

Judgement :

Anjaneyulu, J.

1. The question arising for consideration in this tax revision case relates to the amount of sales tax payable on the sales of radiators. The revision petitioner (hereinafter referred to as 'the assessee') claims that sales tax is payable at only 8 per cent in view of Notification G.O.Ms. No. 807, Revenue(S), dated the 18th May, 1981 read with G.O.Ms. No. 1025 dated 25th June, 1981. The Revenue claims to levy tax at the rate of 12 per cent.

2. The assessee is a registered dealer in automobile and tractor radiators. For the assessment year 1981-82 the turnover included a sum of Rs. 9,79,749 representing the first sales of radiators. Before the assessing authority the assessee claimed that the above turnover of radiators could be taxed at 8 per cent in view of the notifications referred to above. The assessing authority accepted the contention and levied tax accordingly.

3. The Deputy Commissioner (Commercial Taxes), Secunderabad, the revisional authority, was of the view that the turnover in radiators should be taxed at 12 per cent under item 1 of the First Schedule. The revisional authority accordingly directed the revision of the assessment by taxing the turnover in radiators at 12 per cent.

4. Against the order of the revisional authority the assessee filed an appeal before the Sales Tax Appellate Tribunal. After examining the point in issue the Tribunal affirmed the order of the revisional authority directing the levy of tax at 12 per cent. The assessee questions the correctness of this view in the present revision case.

5. Sales tax payable on motor vehicles, component parts of motor vehicles, and articles (excluding batteries) adapted for use generally as parts and accessories of motor vehicles under item 1 of the First Schedule is 12 per cent at the relevant time. There is no dispute that if tax has to be levied under this item it has to be levied at 12 per cent. In holding that tax is leviable at 12 per cent on the sales of radiators the revisional authority held that radiators fall under item 1 of the First Schedule.

6. Through the notifications referred to above the Government directed that on sales of 'diesel engines, parts and accessories thereof used in motor vehicles', tax is leviable at 8 per cent. The assessee contends that radiator constitutes a part and accessory of the diesel engine used in motor vehicles and consequently the tax should be levied at 8 per cent.

7. The Tribunal held that a radiator is not a 'part of the diesel engine'. It further held that it is also not an 'accessory' of the diesel engine. On the other hand, the Tribunal held, that it is a part of the automobile and it was purchased as such. It

was pointed out that radiator is not purchased as a part or accessory of the diesel engine but it was purchased as a part of the automobile. Thus the Tribunal held the view that the radiator cannot be held to be a part or accessory of the diesel engine used in motor vehicles and is not, therefore, entitled to the concessional levy of tax at 8 per cent. Inasmuch as the radiator is a part of the motor vehicle, the tax is leviable under item 1 of the First Schedule at 12 per cent.

8. We are unable to agree with the reasoning adopted by the Tribunal. The question for consideration is whether the notifications referred to above apply in respect of sales of radiators. In order that the notifications apply, two conditions have to be satisfied as specified in the notifications. They are :

(a) the radiator should be a part or accessory of the diesel engine;

(b) it should be used in motor vehicles.

If the above two conditions are satisfied, it is not necessary to ask any further question. Now, there is no dispute about the fact that radiator is used in motor vehicles. Therefore, the second requirement is satisfied. The only dispute is regarding the first requirement, namely, whether the radiator is a part or accessory of the diesel engine.

9. We are in agreement with the view expressed by the Tribunal that radiator cannot be considered to be a part of the diesel engine. A mechanical device can be held to be a part of the machine if it can be said that the machine cannot be operated without that part. There can be no dispute that a diesel engine can be operated without the help of a radiator and in that sense a radiator cannot be treated as a part of the diesel engine itself. But the question is whether it is an accessory of the diesel engine. The Tribunal rightly applied its mind to gather the meaning of an 'accessory'. In Black's Law Dictionary (Fifth Edition) the word 'accessory' is defined as :

'Anything which is joined to another thing as an ornament, or to render it more perfect, or which accompanies it, or is connected with it as an incident, or as subordinate to it, or which belongs to or with it Adjunct or accompaniment

..... Aiding or contributing in secondary way or assisting in or contributing to as a subordinate.'

Webster's Third New International Dictionary defines 'accessory' as :

'an object or device that is not essential in itself but that adds to the beauty, convenience, or effectiveness of something else any of several mechanical devices that assist in operating or controlling the tone resources of an organ.'

10. Thus the word 'accessory' carries a wide meaning. A radiator undoubtedly enhances the effectiveness of the engine and it assists in operating or controlling the diesel engine. A radiator renders an engine more perfect. It is a subordinate adjunct to the engine. Water radiates through the radiator into the engine so that the engine cools down without generating heat. If there is no radiator, the engine is bound to become non-functional and burst on account of uncontrolled heat generated in the engine of a motor vehicle. Thus an engine cannot function satisfactorily and effectively without being aided by radiator and in that sense the radiator is an 'accessory' of the engine. In this view there is no escape from the conclusion that a radiator is an 'accessory' of the diesel engine and is, therefore, covered by the notifications referred to above. We cannot subscribe to the view of the Tribunal that because radiator is a part or accessory of the motor vehicle, it cannot also be a 'part or accessory' of the diesel engine. It is not necessary to ask the question whether the radiator is a part or accessory of the motor vehicle for the purpose of applying the notifications. The question to be considered is whether the radiator is a part or accessory of the diesel engine and if the answer is 'yes', no other consideration should prevail. Once the radiator is held to be a 'part or accessory' of the diesel engine, the concessional rate of tax prescribed by the notifications applies. For the reasons stated above, we have no hesitation in coming to the conclusion that a radiator is an 'accessory' of the diesel engine and, therefore, the notifications directly apply and the sales can be subject to tax at the rate of 8 per cent only.

11. In the result the tax revision case is accordingly allowed. No costs. Government Pleader's fee Rs. 250.

12. Petition allowed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com