Sohan Engineering Constructions Vs. Commissioner of Commercial Taxes and ors.

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Court : Andhra Pradesh

Decided On : Apr-28-1998

Reported in : [2000]118STC129(AP)

Judge : P. Venkatarama Reddi and ;A. Hanumanthu, JJ.

Acts : Andhra Pradesh General Sales Tax Rules, 1957 - Rule 17G(1)

Appeal No. : Writ Petition No. 11736 of 1998

Appellant : Sohan Engineering Constructions

Respondent : Commissioner of Commercial Taxes and ors.

Advocate for Def. : The Special Government Pleader for Taxes

Advocate for Pet/Ap. : K. Ramesh Nath Reddy, Adv.

Judgement :

P. Venkatarama Reddi, J.

1. Heard both the counsel at the admission stage.

2. The petitioner who is a contractor has sought for two reliefs, i.e., (i) to deduct tax at source at the rate of 1 per cent on material component involved in

agreement No. LS/40/AIBP/GVC-4/1997-98 dated March 11, 1998 entered into by the petitioner with the second respondent and (ii) not to deduct tax at source on items relating to excavation of earth work involved in the said agreement dated March 11, 1998. The description of the contract work entrusted to the petitioner in Lining of Kakatiya Canal from k.m. 268 to 283.

3. Similar matters were disposed of by the same Division Bench and other Benches taking the view that the tax deduction at source cannot be resorted to in case of earth work excavation involving pure labour contract unless the earth is brought from outside source and deposited at the work spot. As regards the rate of tax deduction on the value of the material transferred or used in the course of works contract, we have held that the rate of tax is 1 per cent or 3 per cent depending upon the nature of the work. If the work is in the nature of canal digging, lining and repairing, the tax deduction shall be at 1 per cent otherwise it shall be at 3 per cent.

4. It is stated that part of the work relates to earth work excavation. If no earth is brought from outside source, we direct that no tax shall be collected at source. As regards the rate of tax on the value of the materials had in other items of work, in view of the nature of the work, obviously the tax deduction at the rate of 1 per cent is applicable as per Clause (ii) of Rule 17-G(1).

5. We, therefore, direct the authorities concerned to act in accordance with the legal position at clarified above while deducting the tax at source.

6. The writ petition is accordingly disposed of at the admission stage.