The State of Andhra Pradesh Vs. Repute Plastic Colours Ltd.

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Court : Andhra Pradesh

Decided On : Aug-23-2001

Reported in : [2002]125STC282(AP)

Judge : S.R. Nayak and ;S. Ananda Reddy, JJ.

Acts : Andhra Pradesh General Sales Tax Act - Sections 22(1)

Appeal No. : T.R.C. No. 212, 237 and 238 of 1998

Appellant : The State of Andhra Pradesh

Respondent : Repute Plastic Colours Ltd.

Advocate for Pet/Ap. : Spl. Govt. Pleader for Taxes

Disposition : Revision dismissed

Judgement :
ORDER

S.R. Nayak

1. The point that arises for decision is whether the cable sheathing compound manufactured by the respondent-dealer is an article of plastic falling under Entry No.186 of the First Schedule to the A.P.G.S.T. Act or is a general good.

2. It is trite that the Sales Tax Appellate Tribunal (for short 'the Tribunal), is the final fact finding authority under the A.P.G.S.T. Act. The answer to the above question is undoubtedly an answer on a pure question of fact. Therefore, the only thing to be seen by the Court is whether the factual finding recorded by the Tribunal is based on some substantive evidence or perverse. If the Court finds that the factual finding is based on some legally admissible evidence, there will not be any scope for the Court to upset the factual finding. The Court cannot go into the question of adequacy or inadequacy of the evidence on the basis of which the Tribunal has recorded the finding. The learned Tribunal, while dealing with the details of the process to which the purchased goods, namely, LDPE granules is subjected before manufacture of the cable sheathing compound, has stated as follows:

'According to the Encyclopedia Britannica, polymers are subject, in various degrees, to degradation by heat, light and oxidation and can be protected by substances that only arrest but not entirely prevent these processes. Low density polyethylene is an important example of a polymer that must be protected by antioxidants. It is characterized by side chains, and each junction is vulnerable to oxidation, which is dealt with by phenols, alone or in conjunction with sulfur-containing eaters or phosphates. Oxidation caused by light calls for ultra violet absorbers, the most satisfactory of which carbon black, the antioxidants in this case being phenols and naphtha's containing sulfur. The addition of carbon black and antioxidants is thus correctly explained by the appellant. As regards EVA, it is co-polymer. Polymerization of a single monomer results in a Homo-polymer such as poly-ethylene, where the polymer has identical repetitive units, whereas a Co-polymer results when two different kinds of monomers are polymerized, example of which is EVA co-polymerization of poly-ethylene with vinyl acetate resulting in EVA at high pressures increases flexibility resistances to stress crackling and also seal ability. This is evidently the reasons for adding EVA to the low density polyethylene.

Low density polyethylene is principally used as thin films for bags of all sizes, for agricultural mulch, building site protection, lamination, all kinds of packaging and electrical cable insulation. The appellant is not manufacturing any new product. It is buying and selling LDPE granules, but after subjecting the raw-material viz., LDPE granules to a process of improvement which makes it fit for cable sheathing. This process consisting of heating the LDPE black granules in the virgin form to a temperature of about 180o and adding the additives like EVA, carbon black and ante oxidants in marginal quantities and putting all ingredients through twin screw compounders. The latter are machines which ensure homogenous mixing of the additives. There is no new substance formed. There is only an inter-mingling of LDPE and the additives resulting in a homogenous physical lodging of the additives in between the long polymer chains of LDPE. This process is called compounding and is in effect an addition of plastisizers, curative, stabilizers, pillars, colouring agents, lubricants into the virgin polymer according to the requirements of the ensurer. Here the LDPE granules are heated mixed and rolled with the additives EVA, carbon black and anti oxidant and then cooled to reform granules which are amenable to being used as sheathing compound. The appellant has in short processed LDPE granules for a certain purpose, but the granules remain LDPE granules. This explains the fact that the appellant is registered under the Excise Act for manufacture of LDPE granules and its raw material is also LDPE granules as mentioned in the previous para. We therefore have no hesitation in holding that the appellant's product also falls under entry 186, item 1 and is not liable to tax a second time if the LDPE granules and the additives have already suffered tax within the State. Despite the addition of EVA which is co-polymer, the appellant's product remains organically LDPE which is a homo polymer covered by sub-item (1) of entry 186 of the First Schedule to the APGST Act.'

3. The reasons stated by the learned Sales Tax Appellate Tribunal to record the above factual finding cannot be said to be perverse or based on `no evidence'. Therefore, no question of law arises out of the order of the Tribunal dated 20.4.1998, warranting exercise of the power conferred upon this Court under Section 22(1) of the APGST Act.

4. The T.R.Cs. are accordingly dismissed. No costs.