Modern Printers Vs. State of Kerala

Modern Printers Vs. State of Kerala

SooperKanoon Citation : sooperkanoon.com/732512

Court : Kerala

Decided On : Oct-31-2002

Reported in : [2006]146STC645(Ker)

Judge : G. Sivarajan and; K. Balakrishnan Nair, JJ.

Appeal No. : T.R.C. No. 456 of 2001

Appellant : Modern Printers

Respondent : State of Kerala

Advocate for Def. : Georgekutty Mathew, Government Pleader

Advocate for Pet/Ap. : K. Janardhanan, Adv.

Judgement :

G. Sivarajan, J.

1. The assessee is the revision petitioner. It is a printing press. According to the assessee, it is only engaged in the execution of job-works. Of course, the assessee purchases raw materials, such as, printing ink, paper, cards, etc., for the execution of the said work. In the assessment for the year 1991-92, the assessee claimed exemption under the Notification S.R.O. No. 364/88. The assessing authority rejected the said claim on the ground that the profit and loss account shows that the assessee had purchased raw materials, such as, printing ink,

paper, cards, etc., to the tune of Rs. 1,34,040-20 during the relevant year. It is also stated that the assessee had not produced any evidence to show that the said materials have been used for execution of job-works on contract basis. The first appellate authority has also rejected the contention of the assessee based on the notification stating that the assessee has not produced any evidence either before the assessing authority or before the first appellate authority to prove that the material used for executing the works entrusted to the appellant by the customers have been supplied by them. The appellate authority further observed that in order to claim the benefit of the Notification S.R.O. No. 364/88 the raw materials must be supplied by the customers or they must be purchased in the name of the customers. It was further observed that in the absence of any reliable and convincing piece of evidence, it cannot be said that the nature of work carried on by the assessee is only the execution of contract work. He accordingly held that the assessee is not entitled to exemption under the notification. The Tribunal in further appeal by the assessee agreed with the order of the authority below. Hence the revision.

2. We have heard Shri K. Janardhanan, learned Counsel for the revision petitioner and the learned Government pleader appearing for the respondent. The counsel for the revision petitioner mainly relies on the decision of the Appellate Assistant Commissioner, Agricultural Income-tax and Sales Tax, Kozhikode, in the case of the assessee for the year 1993-94 rendered on September 27, 1997 (annexure IV) and submits that the Appellate Assistant Commissioner had allowed the claim made by the assessee based on the Notification S.R.O. No. 364/88. He further submits that there was absolutely no justification on the part of the authority and the Tribunal in declining to grant the relief under the said notification for this year. The counsel also submits that the petitioner had executed only job-works as per the orders of the customers which can be ascertained from the various documents maintained by the assessee. The learned Government pleader appearing for the respondent on the other hand submits that the assessee had not produced any material to show that the turnover represents contract works.

3. We have considered the rival submissions. According to us, the assessing authority as well as the appellate authority were under the wrong impression that

in order to get the benefit of the Notification S.R.O. No. 364/88, apart from the contract for execution of job-work, the customers must supply the raw materials, such as, printing ink, paper, cards, etc. The Notification S.R.O. No. 364/88 clearly provides, as rightly understood by the authorities, that the turnover of contract work is entitled to exemption. The assessee has specifically raised the contention that it had executed only job-work and for that purpose it had purchased raw materials, such as, printing ink, paper, cards, etc. As already noted, the assessing authority and the appellate authorities have mainly rejected the claim for exemption on the ground that the assessee had purchased the raw materials. As we have already noted, whether the raw materials are purchased by the assessee or supplied by the customer, is irrelevant for the grant of exemption under the notification. The only question to be considered is whether the turnover is the result of a contract. Of course, in that matter, all the authorities are unanimous that the assessee had not produced any evidence regarding the works orders issued by the customers. However, having regard to the fact that the Appellate Assistant Commissioner for the year 1993-94 had taken the view that the assessee was entitled to the benefit of the notification, we are of the view that the assessee should be given an opportunity to produce all the materials to show that the entire purchase of raw materials are used in the execution of job-work. In other words, the assessee has to produce evidence regarding the contract between the assessee and the customers in the form of work orders. For the said purpose, we set aside the orders of the assessing authority and the two appellate authorities and direct the assessing authority to consider the matter keeping in mind the order of the Appellate Assistant Commissioner for the year 1993-94 also. The assessee is free to produce all records in support of its contention regarding exemption under the notification. Since this matter relates to the assessment year 1991-92, the assessing authority is directed to pass the orders as directed hereinabove within a period of three months from the date of receipt of a copy of this judgment.

The tax revision case is disposed of as above.