2025:AHC:212585

Reserved on 11.11.2025

Delivered on 27.11.2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

SALES/TRADE TAX REVISION No. - 108 of 2024

The Commissioner Commercial Tax

.....Revisionist(s)

Versus

S/S Tata Steel Processing and Distribution Ltd

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Bipin Kumar Pandey, C.S.C.
Counsel for Opposite Party(s)	:	A.k.srivastava

Court No. - 7

HON'BLE PIYUSH AGRAWAL, J.

1. Heard Mr. B. K. Pandey, learned ACSC for the revisionist and Mr. A.K. Srivastava for the opposite party.

2. The present revision has been filed against the order dated 13.6.2024 passed by the Commercial Tax Tribunal in Second Appeal No. 86 of 2022 (2015-16) arising out of Entry Tax Act.

3. The present revision has been admitted by this Court vide order dated 10.9.2024 on the following substantial question of law:-

> *"1. Whether on the facts and circumstances of the case the Commercial Tax Tribunal was legally justified in deleting the amount of penalty levied under Section 34 (8) of UP Value Added Tax Act read with Section 12 (5) of the Entry Tax Act?"*

4. Learned ACSC for the revisionist submits that the opposite party is a registered dealer and is carrying out business of purchase of H.R. Coil and thereafter, manufacturing activity is being undertaken and convert H.R. Coil into H.R. Sheets. The opposite party being manufacturer was liable to pay the entry tax on the sale of H.R. Sheets as required under the Act but the same was not paid. The assessing authority while framing the assessment order has levied entry tax on H.R. sheets, which was challenged in first appeal but the same was dismissed against which second appeal was filed but by the impugned order the levy of entry tax has been deleted.

5. Learned ACSC submits that goods purchased by the opposite party are different item than sale. He submits that in the commercial world, H.R. Sheets and H.R. Coils are differently treated. He further submits that use of two commodities i.e H.R. sheets and H.R. coils are different, therefore, the legislature in its wisdom has only exempted H.R. Coils from levy of entry tax but not H.R. Sheets. But the Tribunal being last court of fact and law has wrongly allowed the appeal of the opposite party.

6. *Per contra,* learned counsel appearing for the opposite party supports the impugned order and submits that the Tribunal has rightly deleted the penalty as H.R. Coil and H.R. Sheets are same. He submits that no manufacturing activity is being undertaken by the opposite party. He submits that H.R. Coils are being purchased and thereafter as per the requirement the sheets are cut to different sizes and there is no manufacturing activity is being under taken.

7. In support of his submission, learned counsel for the opposite party has relied upon the judgement of Apex Court in the case of **Commissioner of Central Excise Vs. M/s S.R. Tissues Pvt. Ltd. And another 2005 6 SCC 310** and **State of Maharastra Vs. Mahalaxmi Stores, 2003 1 SCC 70.**

8. Learned counsel for the opposite party further submits that in the case of **M/s S.R. Tissue (supra)**, Hon'ble the Apex Court has taken a view that process of unwinding, cutting and slitting to sizes off jumbo rolls of tissue paper would not amount to manufacture and similarly in the case of **Mahalaxmi Stores (supra)**, the Apex Court has held that when stone boulders were crushed into stone chips, gitti and stone ballast, the process could not be termed as manufacture. He submits that the present case is squarely covered with the aforesaid judgement of Supreme Court.

9. After hearing learned counsel for the parties, the Court has perused the records.

10. The only dispute with regard to levy of entry tax of H.R. Sheets. In the Entry Tax Act, H.R. Coils are exempted from payment of tax. In view of the Notification No. 2643 dated 16.5.2013 wherein at Serial No. 14 (v) H.R. Coils are

specifically being mentioned. Under the Central Excise Act, Section 14 (iv) Specifically described two different entries i.e. H.R. sheets and H.R. Coils and H.R. sheets are taxable @ 1 % while H.R. Coils are exempted. The intent of legislature is absolutely clear for only exempting H.R. coils and not H.R. sheets. The H.R. sheets and H.R. coils have separate identity and manufacturing process is also different. The H.R. coil is used for manufacturing of tubes and pipes whereas the H.R. sheets is used in framing and general engineering etc. Once the commodity i.e. H.R. coils and H.R. sheets are different for its own, the same cannot be treated as identical. Once the authorities found that there are different commodity in the trade world, the Tribunal was not justified in treating the same.

11. A Five Judges Constitution Bench of Hon'ble the Apex Court in the case of **A. Hajee Abdul Shukoor and Company Vs. State of Madras, AIR 1964 Supreme Court 1729** has taken a view that hides and skins in the untanned condition are undoubtedly different merchandise than tanned hides and skins.

12. The relevant paragraphs of the judgement of Constitution Bench of the Apex Court in the case of **A. Hajee Abdul Shukoor and Company (supra)** are quoted as under:-

> *14. The next question is whether sub-rule (1) of r. 16 became invalid when this Court declared sub-rule (2) invalid in Mehtab's Case MANU/SC/0352/1962MANU/SC/0352/1962 : (1963) Supp. 2 S.C.R. 435. The contention for the petitioner is that it became invalid because hides and skins, whether tanned or untanned, constituted one commodity and that therefore tax cannot be levied on the sale of hides and skins in the raw condition when no tax is levied on the sale of hides and skins in the tanned condition. It is*

contended for the State that they are different commodities, and constitute two separate categories for purposes of taxation. We are inclined to the view that they form different categories.

15. Hides and skins in the untanned condition are undoubtedly different as articles of merchandise than tanned hides and skins.

16. It is urged for the petitioners that tanning is only a preservative process which makes no change in the nature of the article itself.

17. The question whether tanned skins and hides are different commodities from raw skins and hides has been considered by Courts a few times.

18. In Government of Andhra v. Nagendrappa MANU/AP/0048/1956MANU/AP/0048/1956 : 7 S.T.C. 568 is the observation :

> *"The tanning of raw hides and skins is a manufacturing process as a result of which the product that emerges is different from the raw material."*

19. In State of Andhra Pradesh v. M. A. Abdul Bari and Co. 9 S.T.C. 231 237. is also an observation to the same effect, it being :

> *"The stage of collection is also appropriate as, after the tanning, the hides and skins become different commodities.....".*

20. In Encyclopaedia Britannica, Vol. 13, p. 845, it is stated, in connection with 'leather' :

> *"Leather is manufactured from the hides and skins of various animals. ....The object of tanning (or the manufacture of leather) is the conversion of the putrescible skin into a material which under ordinary conditions of use does not putrefy, and which can be wetted and subsequently dried without becoming hard or horny."*

21. Reference may also be made to State of Travancore Cochin v. Shanmugha Vilas Cashew Nut Factory MANU/SC/0096/1953MANU/SC/0096/1953 : [1954]1SCR53 in which it was held that raw cashewnuts become a different

commodity commercially after the application of certain processes as a result of which they are converted into edible kernels.

22. It is therefore not correct to say that the process of tanning brings about no change in the raw hides and skins and that therefore both types of hides and skins form one commodity.

23. The petitioners rely on two cases in support of their contention that the tanned and untanned hides and skins do not form different commodities but constitute one commodity.

24. In Abdul Subban and Co. v. State of Madras MANU/TN/0287/1959MANU/TN/0287/1959 : 11 S.T.C. 173 is the observation :

> *"Section 14(3) of the Central Sales Tax Act, 1956 (Act 74 of 1956) also treats hides and skins, whether dressed or raw, as a single commodity..... Since skins tanned or untanned, constitute only one class of goods and the sale of that class of goods can be taxed only at a single point, obviously there can be no tax on a sale of tanned goods, if tax has already been paid on an earlier transaction when those skins were untanned."*

25. No reason is given why the two kinds of hides and skins are treated as a single commodity.

26. The other case relied on is Raghbir Chand Som Chand v. Excise and Taxation Officer MANU/PH/0213/1959MANU/PH/0213/1959 : 11 S.T.C. 149.. This case does not directly concern hides and skins. It however held that ginned cotton and un-ginned cotton constitute one commodity, as the process of ginning just separates the seeds as the character or identity of cotton is not altered thereby, and as ginning is not a manufacturing process. It was taken into consideration that the Constitution as well as the statutes dealing with the matter treat ginned and un-ginned cotton under the same head, indicating thereby that the legislature looked upon ginned and un-ginned cotton as one and the same thing.

27. The fact that certain articles are mentioned under the same heading in a statute or the Constitution does not mean

that they all constitute one commodity. The inclusion of several articles under the same heading may be for a reason other than that the articles constitute one and the same thing.

28. In this connection we may refer to the Madras General Sales Tax Act, 1959. Section 4 of this Act provides that the sales tax on the sale or purchase of declared goods will be payable at the rate and only at the point specified against each article in the II Schedule.

29. The Second Schedule refers to raw hides and skins separately from dressed hides and skins against serial No. 7. The rate of tax is different and so is the point at which the tax is to be levied. This will indicate that in 1959 the legislature in Madras considered raw hides and skins a different commodity from dressed hides and skins. There is no good reason why the legislature be not attributed the same intention when it enacted the 1939 Act especially when there are other reasons also to point to the same conclusion.

30. We therefore hold that raw hides and skins and dressed hides and skins constitute different commodities of merchandise and they could therefore be treated as different goods for the purposes of the Act.

31. The provision of the Act at the relevant time for the levy of tax on the sale of hides and skins was s. 5, clause (vi) which reads :

> *"Subject to such restrictions and conditions as may be prescribed, including conditions as to licences and licence fees.....*
>
> *(vi) the sale of hides and skins, whether tanned or untanned shall be liable to tax under section 3, sub-section (1) only at such single point in the series of sales by successive dealers as may be prescribed."*

32. In 1957 this provision was replaced by s. 5A(4) which read :

> *"The sale of hides and skins, whether in a raw or dressed state, shall be liable to tax only at such single point in the series of sales by successive*

dealers as may be prescribed but at the rate of two percent on the turnover at that point."

33. The series of sales referred to in this provision, to our mind, meant the series of sales of each kind of hides and skins namely the series of sales of raw hides and skins and the series of sales of dressed hides and skins and do not mean a single series of sales which includes successive sales in the first instance of raw hides and skins and after tanning successive sales of tanned hides and skins.

34. The real question is whether these provisions treat raw hides and skins and dressed or tanned hides and skins as one class of goods for the purpose of taxation or as two different classes of goods. If they treat them as one class of goods, the contention for the petitioner loses force as taxing of hides and skins at the time of their sale in a raw condition meets the requirements of law as hides and skins could be taxed only at a single point. If the dressed or tanned hides and skins are not taxed at the time of their sale that does not offend against the statutory provisions. No question of discrimination arises as a sale of raw hides and skins of whatever origin, i.e., whether produced in the State or imported into the State would be equally liable to the levy of tax.

35. If the statute treats both these kinds of hides and skins as different commodities the provision of sub-rule (1) of r. 16 providing for the levy of tax on raw hides and skins at a certain point even in the absence of any provision for the taxation of dressed hides and skins cannot be said to be discriminatory and invalid. The articles to be taxed were not the same and the legislature could provide differently about their taxation."

13. The issue in hand is squarely covered with the aforesaid judgement passed by the Constitution Bench of Apex Court. The H.R. Coils and H.R. Sheets are entirely different commodities.

14. The judgment relied upon by the counsel for the opposite party are in different context as in the present case,

H.R. sheets are absolutely different than H.R. coils as stated above. Its manufacturing, identity as well as use are entirely different. If under the Central Sales Tax Act, two commodities under Section 14 are separately described, therefore, in view of above facts, the impugned order passed by the Tribunal cannot be sustained in the eyes of law and same is hereby quashed.

15. The revision is allowed accordingly.

16. The question of law is answered in favour of the revenue and against the opposite party.

(Piyush Agrawal,J.)

November 27, 2025

Rahul Dwivedi/-