
**Prabhat Rolling Metal Works Vs Commissioner of Commercial Taxes in
Karnataka and Another**

S.T.A. No"s. 1 and 2 of 1988

Court: Karnataka High Court

Date of Decision: Jan. 13, 1988

Acts Referred:

Karnataka Sales Tax Act, 1957 " Section 22 A, 6

Citation: (1988) 69 STC 359

Hon'ble Judges: M. Rama Jois, J; H.G. Balakrishna, J

Bench: Division Bench

Advocate: E.R. Indrakumar, for the Appellant;

Judgement

M. Rama Jois, J.

In these two sales tax appeals, the following question of law arises for consideration :

Whether the Commissioner for Commercial Taxes was right in holding that old aluminium vessels purchased by the appellant were liable to tax u/s

6 of the Karnataka Sales Tax Act of 1957 ?

2. The facts of the case, in brief, are as follows :

The appellant is M/s. Prabhat Rolling Metal Works, Amargol, having its industry at Amargol, Hubli. The assessment years concerned are 1st

January, 1981 to 31st December, 1981 and 1st January, 1982 to 31st December, 1982. During the assessment years, the appellant had

purchased aluminium scrap, in that pieces of aluminium metal as also old aluminium vessels, both of which were used in the manufacture of new

aluminium vessels. These purchases were made from unregistered dealers, under the circumstances, no tax was leviable. There is also no dispute

that the pieces of aluminium metals as also old aluminium vessels, which the appellant purchased, were used for manufacturing new aluminium

vessels for sale. Therefore, the assessing authority proposed to levy tax on the purchase turnover of the old aluminium vessels also. The appellant,

however, objected on the ground that as aluminium vessels as such were exempt from tax under the provisions of the Act, the tax was leviable only

on the pieces of aluminium metals purchased by the appellant and not on the old aluminium vessels. This contention was negatived by the assessing

authority. The relevant portion reads :

The main contention of the dealers is that they are not liable to purchase tax u/s 6 in respect of unregistered dealers purchases of old aluminium

vessels on the ground that aluminium vessels are exempt from tax from 29th March, 1981. They have no objection to assess tax u/s 6 in respect of

unregistered dealers purchases of aluminium scrap. On verification, I found that the dealers have no doubt purchased aluminium vessels from

registered dealers and unregistered dealers and also aluminium scrap to some extent, and the same have been consumed in the manufacture of new

aluminium vessels. In my view, old aluminium vessels are nothing but scrap which were ultimately used in the manufacture of new aluminium

vessels. They have not sold old aluminium vessels but used them for manufacture and thus disposed of the same other than by way of sale in the

State and as such I hold that the said purchases of old aluminium vessels are nothing but only scrap. Further, I find from the trading profit and loss

account filed by the dealers that they have purchased only scrap. I therefore overrule their contentions in this behalf. As regards purchases of

aluminium scrap and vessels of Rs. 46,453.25 made from registered dealers, the same having been purchased from registered dealers for which a

list has been filed in being allowed. Further, the sales turnover of aluminium utensils up to 8th March, 1981 is adopted as per form 3 filed at Rs.

2,36,795.33 and consequently the exempted sales turnover of aluminium utensils works out as under.

Accordingly, the purchase turnover relating to old aluminium vessels was also brought to tax. Aggrieved by the order of the assessing authority the

appellant presented appeals before the appellate authority. Appeals were allowed accepting the contention of the appellant. The Commissioner,

however, was of the view that the order of the appellate authority was prejudicial to the Revenue and therefore proposed to revise the order of the

Deputy Commissioner (Appeals) in exercise of his suo motu revisional power u/s 22-A of the Karnataka Sales Tax Act, 1957. Accordingly, a

notice was issued to the appellant. The appellant filed its objections. The objections were overruled and the order of the appellant authority was set

aside and that of the assessing authority was resorted. Aggrieved by the said order, the appellant has presented these appeals.

3. Sri E. R. Indrakumar, learned counsel for the appellant, contended that by no stretch of imagination the old aluminium vessels purchased by the

appellant could be treated as scrap and therefore the view taken by the appellate authority was correct and the view taken by the Commissioner

was not correct. It is in these circumstances, the question set out first arises for consideration.

4. In support of the submission that the old aluminium vessels could not be treated as scrap, the learned counsel relied on two decisions, one of

Andhra Pradesh High Court and another of Bombay High Court. They are Narayan Venkat and Co. Vs. State of Andhra Pradesh, and Punjab

Business and Supply Co. (P.) Ltd. Vs. State of Maharashtra, In the said two cases, the question for consideration was whether the turnover

relating to purchase of rags from tailor shops for purposes of manufacturing paper was liable to tax. The contention assessee in each of the cases

was that as cotton fabric was exempt from tax, the turnover was not liable to tax. Both the High Courts have taken the view that as the cotton

fabrics were exempt from tax under the provisions of the Act, notwithstanding the fact that what was purchased was rags and chindhis of cotton

fabric they still retained the character of cotton fabric and therefore not liable to tax even on their consumption in the manufacture of a different

commercial commodity. On the same analogy the learned counsel submitted that old aluminium vessels purchased by the assessee, continued to be

aluminium vessels and therefore the purchase turnover relating to old aluminium vessels was not liable to tax notwithstanding the fact that they were

not sold as aluminium vessels as such.

5. It is true that the reasoning in the aforesaid two decisions do support the contention of the appellant. With great respect, we are unable to agree

with the view taken by the two High Courts. It is settled position in law that in understanding the meaning of the words used in the law levying sales

tax the words must be given the meaning, as understood in common or commercial parlance. It appears to us that the word ""cotton fabric"" at

common parlance conveys the meaning of the cotton cloth used as such or for manufacturing clothing and other cotton goods, but does not include

rags and chindhis which are waste products of tailoring industry or old pieces of cloth which has lost utility as cotton fabrics. On the other hand, the

ratio of the decision of the Gujarat High Court in Commissioner of Sales Tax, Gujarat v. Bharat Iron and Brass Foundries [1971] 28 STC 455, on

which the Commissioner has relied is apposite. In the said case the question for consideration was whether old parts of machineries purchased by

a dealer could be treated as scrap for purposes of reprocessing. The Gujarat High Court held that the old parts purchased would fall within the

meaning of the word ""scrap"" as meaning of the word ""scrap"" according to dictionary was not only pieces of something or fragment, but also metal

collected for reworking. We are in respectful agreement with the view taken by the Gujarat High Court.

6. From the facts stated above, it is clear that as far as the pieces of aluminium purchased by the appellant is concerned, the appellant has stated

that it was scrap and therefore taxable as a general item u/s 5 of the Sales Tax Act. But the plea taken by the appellant was that as far as old

aluminium vessels were concerned, as they were purchased as vessels and aluminium vessels are exempt from tax under the provisions of the Act,

they could not be treated as scrap.

7. In the present case, as pointed out by the Commissioner, admittedly the old aluminium vessels purchased by the appellant were not sold as

vessels. In fact they were purchased only for its metal value. In other words, between the pieces of aluminium metal which the appellant purchased

and the old aluminium vessels, there was no difference at all. The latter was purchased only for its metal value for reprocessing and not for being

sold as such. It is also not disputed by the assessee that the old aluminium vessels were not sold by it as such and were used for reprocessing.

8. In the circumstances, we answer the question set out in the affirmative and dismiss the appeals.

9. Appeals dismissed.