

(1994) 11 AP CK 0002

Andhra Pradesh High Court

Case No: Tax Revision Cases No"s. 196, 198 and 206 of 1986

State of Andhra Pradesh

APPELLANT

Vs

Loharu Steel Industries Limited

RESPONDENT

Date of Decision: Nov. 1, 1994

Citation: (1995) 96 STC 369

Hon'ble Judges: S.S. Mohammed Quadri, J; Motilal B. Naik, J

Bench: Division Bench

Advocate: The Government Pleader for Commercial Taxes, for the Appellant; P. Srinivasa Reddy, for K. Raji Reddy, for the Respondent

Judgement

Syed Shah Mohammed Quadri, J.

These three revision petitions relate to the same assessee are for different assessment years. They arise out of a common order of the Tribunal dated January 15, 1986.

2. The question raised in these revisions are :

(1) Whether the Tribunal is correct in holding that the benefit of G.O. Ms. No. 88, Revenue, dated January 28, 1977, is applicable to the assessee who is not a dealer of Andhra Pradesh; and

(2) Whether the revisional authority could revise an order on the ground not specifically mentioned in the show cause notice ?

3. The learned Government Pleader contends that though G.O. Ms. No. 1373, dated August 28, 1981, which confines the benefit of G.O. Ms. No. 88, dated January 28, 1977 to the finished products of the units situated within the State of Andhra Pradesh, came into force on August 28, 1981, it is merely declaratory of the position in G.O. Ms. No. 88, dated January 28, 1977; therefore, the benefit was not available to the unit in question. We are afraid we cannot accept the contention of the learned Government Pleader. The relevant portion of G.O. Ms. No. 88, dated January 28,

1977, reads as under :

"The Governor of Andhra Pradesh hereby makes an exemption with effect from April 1, 1976, the re-rolled finished products of the steel re-rollers from the tax payable under the said Act, subject to the condition that the tax has been levied under the said Act on the sale or purchase of the raw material from which such finished products were obtained."

4. A perusal of the above except of the G.O. makes it abundantly clear that there is no condition requiring that the products of steel re-rollers should be of assessee in the State of Andhra Pradesh. Therefore, the petitioner-company which was dealing in steel re-rollers could not be denied the benefit of G.O. Ms. No. 88, dated January 28, 1977, on the ground that it is situated in Karnataka. In this view of the matter, we do not find any illegality in the order of the Tribunal on this aspect.

5. So far as the second contention is concerned, the disputed turnover was sought to be taxed by the Deputy Commissioner on the ground that the raw material from which steel re-rollers were manufactured, had not suffered tax. Though this is a condition precedent for application of G.O. Ms. No. 88, dated January 28, 1977, yet that is not the ground mentioned in the show cause notice for purposes of revising the assessment. It needs to emphasis to observe that the exercise of power u/s 20 of the said Act by the revisional authority could only be on the grounds mentioned in the show cause notice, otherwise, the very purpose of affording the reasonable opportunity by giving a show cause notice would become a farce formality.

6. The Tribunal has rightly rejected the contentions of the Government on this aspect. We, therefore, find no merit in these revisions. They are accordingly dismissed, but no costs.

7. Petitions dismissed.