*** THE HON'BLE SRI JUSTICE G. CHANDRAIAH**

AND

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

TAX REVISION CASE No. 20 of 2002

23.06.2015

Between

The State of Andhra Pradesh

…Petitioner

$ M/s Sivalingam Beedi Works, Cuddapah District

...Respondent

! Counsel for the Petitioner : Special Govt. Pleader

^ Counsel for the Respondent : - -

< Gist:

> Head Note:

? CITATIONS:

60 STC 213
40 STC 603 (S.C.) (1977)
(1985) 60 STC 213

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ORDER:- (per Hon'ble Sri Justice G. Chandraiah)

This appeal, at the instance of Revenue, arises from the order dated 30.06.2000 in T.A.No. 106 of 1995 of the Sales Tax Appellate Tribunal, Andhra Pradesh, Hyderabad, raising the following substantial questions of law:

> **"1. Whether the order of revision made by the Deputy Commissioner is valid, proper and sustainable or not?**
>
> **2. Whether the Honourable Supreme Courts Judgment rendered by (3) judges in the case of State of Orissa Vs. Titaghur Paper Mills Co. Ltd reported in (60 STC 213) is applicable to this case?"**

2. At the outset, it is fairly submitted by the learned Standing Counsel for the Revenue that the substantial questions raised in this appeal were not properly framed.

3. On a perusal of the order of the Tribunal, the question which falls for consideration is, "whether removal of Beedi leaves from the forest under the trade permit granted under the A.P. Minor Forest Produce (Regulation of Trade in Abnus Leaves) Rules, would amount to sale and attracts liability of payment of Sales Tax?"

4. The Tribunal held in favour of the assessee. The Tribunal, following the judgment in the case of **State of Orissa v. Titaghur Paper Mills Co., Ltd.**[1], had held that there is no sale. The Tribunal had also taken note of the fact that the judgment rendered in the case of **State of Madhya Pradesh**

v. Orient Paper Mills[2] by the Hon'ble Supreme Court, on which the Assessing Officer had relied on, was a 2-judge Bench judgment, which judgment has been specifically overruled by the Supreme Court in the case of **Titaghur (1 supra).** Now, the learned Standing Counsel for the Revenue also fairly submits that this Court, in a batch of cases, by judgment dated 20.11.2014 in the **State of Andhra Pradesh v. ITC Bhadrachalam Paper Boards Division, Khammam District**[3]**,** had specifically posed a question in relation to the Bamboo, whether removal of forest produce would amount to sale. This Court held that there is no sale involved.

5. In view of the judgment of this Court in **ITC Bhadrachalam (3 supra)**, the question of law, as re-framed by us, requires to be answered in favour of the Assessee and against the Revenue.

6. Accordingly, the question is answered in favour of the Assessee and against the Revenue.

7. The tax revision case is, accordingly, dismissed. No costs. Pending miscellaneous petitions shall stand closed.

G. CHANDRAIAH, J

CHALLA KODANDA RAM, J

23rd June, 2015

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[1] 60 STC 213

[2] 40 STC 603 (S.C.) (1977)

[3] (1985) 60 STC 213