**HON'BLE SRI JUSTICE SANJAY KUMAR**
**AND**
**HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU**

**TRC.No.184 of 2002**

**ORDER:** (Per Hon'ble Sri Justice Sanjay Kumar)

This revision by the assessee under Section 22(1) of the Andhra Pradesh General Sales Tax Act, 1957 (for short, 'the Act of 1957'), arises out of the order dated 26.12.2001 passed by the Sales Tax Appellate Tribunal, Andhra Pradesh, Hyderabad, in so far as it pertains to T.A.No.699 of 1997 relating to the assessment year 1990-91.

The assessee is involved in execution of works contracts. It claims to have purchased certain Anchor Boards, Tiles, Stones etc., from out side the State for the purpose of such contracts.

The Assessing Officer, in the first instance, accepted the claim of the assessee in this regard and granted exemption on the ground that these inter-state purchases were made pursuant to the works contract agreements. This assessment was however subjected to revision by a higher authority who found that there was no evidence to show that the assessee had purchased the subject material pursuant to the works contract agreements. The Revisional Authority accordingly held that the value of the goods used or supplied in the course of execution of such works contracts should be considered as deemed sales. Aggrieved thereby, the assessee approached the Appellate Tribunal. On facts, the Tribunal found that the assessee was not in a position to produce any proof of purchase of the subject material being pursuant to the works contract agreements entered into by it. As the said material would otherwise be categorized as standard goods available even within the State, the Appellate Tribunal opined that the purchase of such goods from outside the State could have been independent of their ultimate use in the works contracts. The Appellate Tribunal accordingly upheld the finding of the Revisional Authority that the transactions in question should be treated as deemed sales. The appeals were accordingly dismissed.

Sri Danthu Srinivas, learned counsel for the petitioner, would agree that the questions of law that would arise are whether the Appellate Tribunal was right in holding that the goods involved in the works were standard goods and that their purchase from outside the State was independent of their use in the works contracts and whether the Appellate Tribunal was right in upholding the order of the Revisional Authority in the face of the categorical finding of the Assessing Officer that all the purchases were made from outside the State pursuant to the works contract agreements entered into by the assessee, thereby attracting Section 3(9) of the Central Sales Tax Act, 1956 read with Section 38 of the Act of 1957.

We are however of the opinion that the case essentially turned on facts in as much as the assessee failed to produce any proof of the subject purchases having been made by it pursuant to execution of the works contract agreements.

In the absence of this evidence, the Appellate Tribunal was justified in holding that as the material in question could be categorized as standard goods, the same could have been purchased from within the State and therefore, their ultimate use in the execution of the works contracts by the assessee could not, by itself, bring it within the ambit of inter-state sales, thereby entitling it to any exemption.

No question of law, much less a substantial question of law, therefore arises for consideration in the light of these factual aspects.

The revision case is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

**SANJAY KUMAR, J**

**D.V.S.S.SOMAYAJULU, J**

Date: 06.03.2018
KLP