THE HON'BLE SRI JUSTICE T. VINOD KUMAR
AND
THE HON'BLE SMT JUSTICE P.SREE SUDHA

TRC. No. 150 of 2003

ORDER:(*per the Hon'ble Sri Justice T.Vinod Kumar*)

This Tax Revision Case is preferred by the State against the order of the Sales Tax Appellate Tribunal (for short 'the Tribunal'), dt.09.11.2000 in TA.No.180 of 1997 relating to the assessment year 1990-91 under the Andhra Pradesh General Sales Tax Act, 1957 (for short 'the Act').

2. The State is aggrieved by the order of the Tribunal to the extent it had allowed set-off of tax paid on *viz*., – closures, labels, rope seals and adhesives, etc., by holding the same to be packing material, and that the respondent-assessee is entitled to set-off in terms of G.O.Ms.No.374, Revenue, dt.25.04.1987.

3. Heard Sri L.Venkateshwar Rao, learned Special Standing Counsel appearing for the petitioner-State, Sri Amarnath Reddy, learned Counsel appearing on behalf of the counsel for the respondent-assessee and perused the record.

4. The Tribunal, by taking note of the fact that G.O.Ms.No.374 dt.25.04.1987 provides for grant of set-off of tax paid on packing material from and out of the tax payable in respect of the goods, which are liable to tax under Section 6C of the Act, held that the

closures which are used for sealing the goods in which the product is packed for its salability and also the labels affixed thereon and seals etc., had concluded that the said goods would have to be considered as packing material.

5. The Tribunal, while coming to the above conclusion, also took note of its earlier decision rendered in TA.No.s 921 and 928 of 1993 wherein a similar issue has been considered with regard to set-off of tax on purchase of caps and labels, and allowed the appeal, and the said order of the Tribunal had attained finality vis-à-vis the liability or otherwise, to claim benefit of set-off.

6. Though it was sought to be argued by the learned Special Standing Counsel appearing on behalf of the petitioner-State that adhesive labels and rope seals cannot be considered as packing material, inasmuch as no goods are packed in such material, we are afraid, it is not open for the Revenue to raise the said plea, having allowed the order of the Tribunal in TA.No.s 921 and 928 of 1993 to attain finality, wherein similar issue was under consideration.

7. Further, the G.O. also does not restrict the set-off only to such packing material wherein goods are packed, as contended. More so, the Tax sought to be charged on such packing material is in terms of Section 6C of the Act at the rate as applicable to the contents.

8. Therefore, we see no infirmity in the order of the Tribunal giving rise to any question of law as raised in the present TRC.

9. Thus, this TRC is without merit and accordingly, it is dismissed. No order as to costs.

10. Consequently, miscellaneous petitions pending, if any, shall stand closed in the light of this final order.

T. VINOD KUMAR, J

P.SREE SUDHA, J

31st January, 2023

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THE HON'BLE SRI JUSTICE T. VINOD KUMAR

AND

THE HON'BLE SMT JUSTICE P.SREE SUDHA

TREVC. No. 150 of 2003

(*per the Hon'ble Sri Justice T.Vinod Kumar)*

31st January, 2023

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