

Cement Ltd.

Vs

State of Orissa and Another

Civil Appeal No. 2191 of 1966

(J. C. Shah, K. S. Hegde, A. N. Grover JJ)

22.04.1970

JUDGMENT

HEGDE, J. -

1. In this appeal by special leave, the question for consideration is whether the appellant is entitled to the rebate provided in Section 13(8) of the Orissa Sales Tax Act, 1947, as amended by Orissa Sales Tax (Amendment) Act, 1962 (to be hereinafter referred to as 'the Orissa Act') read with Section 9(3) of the Central Sales Tax Act, 1956 (to be hereinafter referred to as 'the Central Act').

2. The appellant is an incorporated company and it is a registered dealer under the Central Act. The appellant-company was assessed to sales tax under the Central Act for the two quarters ending 31st December, 1962 and 31st March, 1963. During the first quarter its tax liability was Rs. 62,061.86 P. and during the second quarter its tax liability was Rs. 47,266.21 P. The tax levied was paid by the assessee within the time fixed Section 13(4)(d) of the Orissa Act.

3. Section 13(8) of the Orissa Act provides :

"A rebate of one per centum on the amount of tax payable by a dealer shall be allowed if such tax is paid by the dealer on or before the due date of payment."

4. Section 9(3) of the Central Act as it stood at the relevant time provided :

"The authorities for the time being empowered to assess, collect and enforce payment of any tax under the general sales tax law of the appropriate State shall, on behalf of the Government of India, and subject to any rules made under this Act, assess, collect and enforce payment of any tax including any penalty payable by a dealer under this Act, in the same manner as the tax on the sale and purchase of goods under the general sales-tax law of the State is assessed, paid and collected and for this purpose they may exercise all or any of the powers that have under the general sales-tax law of the State; and the provisions of such law including the provisions relating to returns, appeals, reviews, revisions, references, penalties and compounding of offences, shall apply accordingly."

5. The question for consideration is whether in view of Section 9(3) of the Central Act, the assessee is entitled to the rebate provided in Section 13(8) of the Orissa Act. Quite clearly the rebate the payment of the tax levied within the time prescribed under the Orissa Act was provided as a stimulus for prompt payment. The question is whether such a stimulus is apart of the manner of collection. The rebate is offered to facilitate and expedite collections. It is intended to stimulate the

collection. Therefore, it is a part, of the process of collection. In that view, is proper to hold that in view of Section 9(3) of the Central Act, the rebate provided in Section 13(8) of the Orissa Act is payable to the assessee under the Central Act, if they pay the tax assessed within the prescribed time. The power to collect the tax assessed in the same manner as the tax on the sale and purchase of goods under the General Sales Tax law of the State provided in Section 9(3) of the Act includes within itself all concessions given under the Orissa Act for payment within the prescribed time.

6. For the reasons mentioned above, we allow this appeal and aside the order of the High Court and issue a direction to the respondents to grant to the appellant the rebate provided in Section 13(8) of the Orissa Act. The respondents shall pay the costs of the appellant both in this Court as well as in the High Court.

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