

Cement Marketing Co. of India Ltd.

Vs

Commissioner of Commercial Axes, Karnataka

Civil Appeal No. 2635 of 1977

(P.N. Bhagwati, R.S. Pathak JJ)

30.10.1979

JUDGMENT

BHAGWATI, J. –

1. This appeal by special leave raise the question whether in respect of transactions of sale of cement effected by the appellant under the provisions of the Cement Control Order, the amount of freight formed part of the "sale price" within the meaning of the definition of that term in Section 2(h) of the Central Sales Tax Act, 1956 and was includible in the taxable turnover of the appellant.
2. This question is no longer res integra and it stands concluded by a recent decision given by this Court in Hindustan Sugar Mills v. State of Rajasthan ((1978) 4 SCC 271 : 1978 SCC (Tax) 225 : (1979) 1 SCR 276). It has been held by this Court in that case that by reason of the provision of the Cement Control Order which governed the transaction of sale of cement entered into by the assessee with the purchasers, the amount of freight formed part of the "sale price" within the meaning of the first part of the definition of that term in Section 2(h) of the Central Sales Tax Act, 1965 and was includible in the turnover of the assessee. This decision completely covers the present case and hence we must hold that the High Court was right in taking the view that the amount of freight formed part of the sale price and was rightly included in the taxable turnover of the appellant.
3. We may point out that the observations made by this Court in the order dated August 31, 1979, allowing the review application of the assessee in Hindustan Sugar Mills case (Hindustan Sugar Mills v. State of Rajasthan, (1980) 1 SCC 599) are equally applicable in the present case. The State will do what is fair and just to the appellant as indicated by this Court in that order.
4. We accordingly rejected the appeal and confirm the judgment of the Karnataka High Court at Bangalore.
5. There will be no order as to costs of the appeal.

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