

SUPREME COURT OF INDIA

State of Andhra Pradesh

Vs.

Repute Plastic Colours Ltd.

C.A.No.6102-6104 of 2002

(Ashok Bhan and Dalveer Bhandari, JJ.)

27.03.2008

ORDER

1. Commissioner of Commercial Taxes, Andhra PradeshAppellant Versus M/s. Repute Plastic Colours Ltd.Respondent C.A.Nos.6102-6104 OF 2002 relate to assessment years 1990-91, 1991-92 and 1992-93 and C.A.Nos.6093-6094 of 2002 relate to assessment years 1994-95 and 1995-96. The respondent in these appeals was purchasing, amongst other items, Low Density Polyethylene (LDPE) granules being used in the manufacture of cable sheathing compound and claimed set-off of tax on the said purchase. By order dated 11th July 1994, the Commercial Taxes Officer allowed the set-off. The Dy. Commissioner of Commercial Taxes exercising revisional jurisdiction set aside the order of the Commercial Taxes Officer. Aggrieved by the said order, the respondent approached the Andhra Pradesh Sales Tax Appellate Tribunal, by order dated 20th April 1998, set aside the order of the revisional authority and held that the respondent is entitled to set-off as claimed by it and allowed by the Commercial Taxes Officer. Aggrieved by the order of the Tribunal, the respondent approached the High Court and the High Court, by order dated 23rd August 2001 passed in Tax Revision Case Nos.212, 237 and 238 of 1998, upheld the order of the Tribunal. The said order is under challenge in C.A.Nos.6102-6104 of 2002.

2. In respect of assessment year 1994-95 and 1995-96, the High Court, relying upon its order in Tax Revision Case Nos.212, 237 and 238 of 1998 allowed the appeals filed the respondent herein. The said order is under challenge in C.A.Nos.6093-6094 of 2002. The High Court has in its order observed that the finding recorded by the Tribunal that the respondent processed LDPE granules for a certain purpose, but granules remain LDPE granules and it is not a new product, is a finding of fact and the Tribunal being the final fact finding authority under the A.P. General Sales Tax Act and there being no evidence on record to show that a new product had come into being which was marketable and known to the commercial world, no interference with the order of the Tribunal was called for.

3. We agree with the view taken by the High Court that the C.A.Nos.6102-6104/2002 etc. finding of the Tribunal being a finding of fact, could not be interfered with. The appeals are, therefore, dismissed. No costs.

