

# ANDHRA PRADESH HIGH COURT

S.R.P. Works

Vs

State of Andhra Pradesh

(Obul Reddi and V Rao, JJ.)

18.06.1971

## JUDGMENT

### **Obul Reddi, J.**

1. These two revisions, preferred by the assessee, are directed against the order of the Sales Tax Appellate Tribunal in Tribunal Appeals Nos. 195 and 196 of 1969 confirming the order of the Deputy Commissioner, Kakinada, and rejecting the contention of the assessee that the work undertaken by the assessee is a works contract and not a sale of goods.

2. The facts giving rise to these two revisions are these: The petitioner is a printing press known as M/s. S. R. P. Works and Ruby Press, Kakinada. It supplied cinema tickets printed on different colour papers and of different denominations to the customers, both within the State and outside. Before the customers place the orders for supply of large quantities, they obtain samples and then place orders giving specifications. The printers, while making out bills, gave break-up figures, showing the cost of paper and the cost of printing separately and the total cost. No formal agreements were entered into. But orders were placed by the customers stating the quantity required and the type of paper that has to be used for printing the tickets. The assessing authority only assessed on the value of the paper for printing the tickets and granted exemption in respect of printing charges on the ground that they represent the cost of labour. The Deputy Commissioner, Commercial Taxes, in exercise of his revisional powers, revised the order of the assessing authority holding that the transactions involved are sales of finished goods and not merely of paper and the price of paper cannot be dissociated from printing charges. It is against the order of the Deputy Commissioner treating the entire turnover as representing the sales of cinema tickets that the petitioner preferred the appeals to the Appellate Tribunal. The Tribunal agreed with the findings recorded by the Deputy Commissioner and confirmed the assessment made in respect of the turnover involved in these two cases.

3. Mr. Anantha Babu, the learned counsel appearing for the petitioner, contended that the

Tribunal was in error in holding that the transactions involved are not works contracts and even if they are not works contracts, the bills presented by the assessee would show that they consisted of two separate or distinct contracts—one for the supply of paper and the other, the charges for printing of tickets. To determine whether there are two contracts, one for the supply of paper and the other for printing, it is necessary to look into the orders placed by the customers with the petitioner. Usually in commercial transactions of this nature, no written agreements are entered into but only orders are placed, sometimes orally and sometimes in writing and in these cases written orders were placed by the customers. The intention of the parties whether the contract was for sale of finished goods or only for sale of paper can easily be ascertained from a reading of the orders, pursuant to which the printed material was supplied to several customers. The four orders which have been exhibited read :

1. Order of Sri Venkateswara Palace, Venkatagiri Town, Nellore District, dated 25th February, 1964, We are hereunder placing an order for the following tickets which please receive and send us the printed tickets at an early date as we are badly in need of the said tickets Chair-Yellow-1 to 5,000 Bench-Green--1 to 10,000 (20,000) Floor-Rose-1 to 10,000 (each bundle) (75,000) We are herewith sending Rs. 10 towards advance by M.O. and send us the bill of one lakh tickets through Andhra Bank, Venkatagiri. Draft send by V.P.P. Please let us know the rates of out-passes in the samples after which we will order you. Please send us the tickets immediately as we are not having stock. The samples are herewith enclosed.

We await to receive your reply....

2. Order of Sesh Mahal, Nellore, dated 17th February, 1964. We thank you for your kind letter of 15th instant with its enclosures. We give as under our order for the printing and supply of cinema tickets for both of our theatres and request you to kindly supply the same keeping the same quality and get-up as your previous supplies. Our requirements are :

For Sesh Mahal:

Males : 0.60 from No. 1 to one lakh in red colour : specimen enclosed. 0.30 from No. 1 to one lakh in colour : specimen enclosed-yellow. Ladies : 0.30 from No. 1 to 50,000 specimen paper enclosed-indigo Rang Mahal: Orange-Males : 0.60 class from 1 to 1 lakh. Kraft-Ladies : 0.30 class from 1 to 50,000. Specimens: Orange paper and kaki for 0.60 and 0.30 classes respectively enclosed... Please send quotation with samples for the supply of out-passes by next post.

3. Order of Sri Vijaya Talkies, Vijayawada, dated 25th February, 1964. We have pleasure in placing with you an order for the following tickets:

0.70 Males 80,000      Eight sets in different colours

R. Y. W. G. L. R.      1 to 10,000 each.  
 2'                    2'  
 0.0070    2,000      Two sets in two different colours  
    1 to 10,000 each.

Please supply the above tickets neatly printed at your earliest convenience and oblige.

Thanking you...

4. Order of Sri Balaji Picture Palace, Uravakonda, dated 27th February, 1964: Please supply the following cinema tickets to the above address in an early date. Consignment may kindly be booked to Guntakal R. S. and the relative R. R. and bills may be sent through the Canara Industrial and Banking Syndicate Ltd., Uravakonda. The sample tickets are also enclosed for your guidance. Please supply L. floor tickets in yellow colour and children in white or orange and the rest in usual colour. Tickets may be supplied in books of 500 tickets.

Tickets to be supplied :

Variety	S. No. from	to No.	sets	Total
1. M. Floor-Green		110,000	12 sets	1,20,000
2. L. Floor-Orange	1	10,000	8 sets	80,000
3. M. Bench-Blue	1	10,000	5 sets	50,000
4. Children-White	1	10,000	5 sets	50,000
			-----	
			3,00,000	
			-----	

We hope., that you would kindly do the needful in an early date. Thanking you Sir,...

4. A perusal of the four orders would clearly bring out the intention of the parties. The order in each case was specifically for printing and supply of tickets and there is nothing to suggest that any order was placed for supply of paper separately and separate order was placed for supply of

the printed tickets. Mr. Anantha Babu, however, sought to place strong reliance on the break-up figures in the bills showing the cost of the paper used and the cost involved in printing. The fact that break-up figures are given in the bills is not decisive or conclusive in determining the main question whether there were two contracts—one for supply of paper and the other for printing—or whether it was a works contract or merely an order placed for supply of finished goods. The intention of the parties, as may be seen from the orders extracted above, is that the petitioner should supply finished products. There was no separate stipulation for supply of paper. The contract was for the purchase of tickets printed by the petitioner's press and not for purchase of paper. The property in the goods passes to the buyer only when the finished goods are delivered and not before. It is only when the tickets are printed according to the specifications and delivered to the buyer that the property in the goods passes to the buyer and not otherwise. As has been posed and answered by their Lordships in *Patnaik & Co. v. The State, of Orissa*<sup>1</sup> Suppose a fire were to take place on the premises of the appellant and before delivery the bus bodies were destroyed or spoilt. On whom would the loss fall ? There can only be one answer to this question and that is that the loss would fall on the appellant.

5. Similarly in these cases, if there were to be some mishap in the press and the tickets were destroyed or otherwise lost, it would follow that until the delivery is made the printed goods (tickets) would remain the property of the petitioner and not the property of the buyers. Therefore, it cannot be said there were two distinct contracts—one for supply of paper and the other for printing the tickets.

6. It is next to be seen whether the contract in question is a works contract as sought to be made out by Mr. Anantha Babu. In order to determine whether a particular contract is a contract for sale of goods or works contract, one has to look at the substance of the contract in each case and see whether it is made for the supply of finished goods or whether the agreement is one for exercise of skill and labour for production of the goods. "Works contract" has been defined in Clause (t) of Section 2 of the Act and reads : 'Works contract' means any agreement for carrying out for cash, or for deferred payment, or for other valuable consideration, the construction, fitting out, improvement or repair of any building, road, bridge or other immovable property or the fitting out, improvement or repair of any movable property.

7. It is manifest from the definition of "works contract" in so far as it relates to movable property that the contract should be one either for fitting out, improving or repairing of any movable property. It cannot be said that the printing of cinema tickets on paper and supplying them to the buyer by the assessee would come within the ambit of the expressions "fitting out, improving and repairing" of the material used for printing. Unless a contract pertains to fitting out, improving or repairing any movable property, it cannot come within the meaning of "works contract". In a

similar case of a printing press the business of which was to print on orders, letter heads, bill books, account books in The State of A. P. v. Sri Krishna Power Press, Vizianagaram [1960] 11 S.T.C. 498, the learned Judges repelled the contention of the assessee that the works involved in that case constituted works contract.

8. Suffice it to say that therefore a transaction which results in transfer of property in finished goods, as in these cases cinema tickets printed to certain specifications, cannot be construed as a works contract. The transactions are sales within the meaning of Clause (n) of Section 2 of the Andhra Pradesh General Sales Tax Act.- The fact that the finished products (cinema tickets) cannot be sold to the general public is certainly no ground for regarding the contract as works contract.

9. We have, therefore, no hesitation in upholding the findings of the Tribunal and dismissing these two revisions with costs in each. Advocate's fee Rs. 100 in each.

Cases Referred.

1[1965] 16 S.T.C. 364 at 376 (S.C)