

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 7830-7832 of 2009

COMMISSIONER OF TRADE TAX,
U.P. . . . APPELLANT (S)

VERSUS

S/S INTERNATIONAL
ELECTRODES . . . RESPONDENT (S)

WITH

CIVIL APPEAL NOS. 7835-7838 OF 2009
[COMMR. OF SALES TAX, U.P. VS. S/S IRON
ROD DRAWING FACTORY]

CIVIL APPEAL NO. 7834 OF 2009
[COMMISSIONER, TRADE TAX, U.P., LUCKNOW VS.
DECENT INDUSTRIES SARAI MIAN, ALIGARH]

CIVIL APPEAL NO. 7833 OF 2009
[M/S IRON ROD VS. COMMISSIONER, TRADE TAX,
U.P.]

ORDER

1. We have heard the learned counsels
for the parties.

2. The short question that has arisen
for decision in this group of appeals is
whether iron wire obtained from iron rods

is a separate and distinct commodity from iron rods so as to make the same taxable separately over and above the sales tax already paid on iron rods.

3. The High Court answered the question in favour of the Assessee by relying on a decision of this Court in Telangana Steel Industries and others vs. State of A.P. and others¹. This Court in the Telangana Steel Industries' case (supra) did not specifically go into the question as to whether the iron rods and the iron wires are two distinct and separate commodities but seems to have taken the view that when both the items are clubbed together under Section 14(iv)(xv) of the Central Sales Tax Act, 1956 the two items has to be taxed as one taxable item.

4. Learned counsel for the Revenue has relied on the decision of this Court in TVL K.A.K. Anwar and Co. vs. State of T.N.² which in turn refers to a Constitution Bench judgment in A. Hajee Abdul Shukoor and Co. vs. State of Madras³ to contend that an exercise to find out whether the two items, though clubbed together under any of the items in Section 14, are same or distinct items has to be necessarily made before determining the exigibility of the item/items to sales tax under the U.P. Trade Tax Act, 1948.

5. In this regard, a reference has been made to another decision of this Court in State of Tamil Nadu vs. M/s Pyare Lal Malhotra and others⁴.

2 (1998) 1 SCC 437
3 AIR 1964 SC 1729
4 (1976) 1 SCC 834

6. We have considered the submissions advanced and have also read and considered the decisions of this Court referred to above.

7. Even if we are to hold that an exercise for determination whether two items clubbed together in Section 14 of the Central Sales Tax Act, 1956 are one or two distinct items has to be made, a reference can be made to the views expressed by this Court in Collector of Central Excise vs. Technoweld Industries⁵ where, though for the purposes of central excise duty, the question has been answered by holding that iron rods and iron wires are one and the same commodity and the extraction of wires from iron rods does not amount to any manufacturing activity. In this regard, we have also taken note of the definition of

the term "manufacture" contained in Section 2(e-1) of the U.P. Trade Tax Act, 1948. The said definition would not enable us to take a view different from the conclusion reached by this Court in Collector of Central Excise (supra). Though the aforesaid decision was in the context of levy of central excise duty we do not see how, in the teeth of the findings recorded in the said order that extraction of wires from iron rods does not amount to a manufacturing activity, any other conclusion except that the two items are one and the same can be reached.

8. In view of the aforesaid conclusions recorded by us we find no infirmity in the order of the High Court. The order of the High Court is accordingly upheld.

9. Consequently and in the light of the above the appeals filed by the Revenue (i.e. Civil Appeal Nos. 7830-7832/2009, 7835-7838/2009 and 7834/2009) are dismissed and the appeal filed by the Assessee (i.e. Civil Appeal No.7833 of 2009) is allowed.

.....,J.
(RANJAN GOGOI)

.....,J.
(NAVIN SINHA)

NEW DELHI
SEPTEMBER 19, 2017

ITEM NO.103

COURT NO.3

SECTION III-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO. 7830-7832/2009

COMMNR. OF TRADE TAX , U.P.

APPELLANT (S)

VERSUS

S/S INTERNATIONAL ELECTRODES,
MANAGER (DEAD) THROUGH L.RS.

RESPONDENT (S)

WITH

C.A. NO. 7835-7838/2009 (III-A)

C.A. NO. 7834/2009 (III-A)

C.A. NO. 7833/2009 (III-A)

Date : 19-09-2017 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE NAVIN SINHA

For parties:

Mr. Vishwa Pal Singh, Adv.
Mr. Upendra Mishra, Adv.
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Mr. Rajesh Jain, Adv.
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Ms. Aastha Gandhi, Adv.
Mr. Rajesh Kumar, AOR
Mr. Virag T., Adv.
Mr. Rahul Krishna, Adv.
Mr. R.K. Srivastava, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeals filed by the Revenue (i.e. Civil
Appeal Nos. 7830-7832/2009, 7835-7838/2009 and

7834/2009) are dismissed and the appeal filed by the Assessee (i.e. Civil Appeal No.7833 of 2009) is allowed in terms of the signed order.

[VINOD LAKHINA]

AR-cum-PS

[ASHA SONI]

BRANCH OFFICER

[SIGNED ORDER IS PLACED ON THE FILE]