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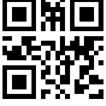

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3526]
(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTH DAY OF MAY
TWO THOUSAND AND TWENTY FIVE

PRESENT
THE HONOURABLE SRI JUSTICE NINALA JAYASURYA
AND
THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

TAX REVISION CASE No. 10 of 2024

Between:

M/s. Pearl Beverages Ltd., **...PETITIONER**

AND

The State Of Andhra Pradesh **...RESPONDENT**

Counsel for the Petitioner:

1. A SARVESWAR RAO

Counsel for the Respondent:

1. GP FOR COMMERCIAL TAX

The Court made the following:

ORDER: (*Per Hon'ble Sri Justice Tarlada Rajasekhar Rao*)

The revision petitioner herein is manufacturer of soft drinks under the brand name of Pepsi. In furtherance of such business, the appellant regularly purchases glass bottles and coolers. In view of transitional provision facilitating the change from one statutory regime to another' and under transition from the AP General Sales Tax Act, 1957, to the Value Added Tax system under section 13 (2) of VAT Act (for short 'the Act'), the petitioner herein made a claim to Input Tax Credit equivalent to the APGST paid on the value of the opening stock as on 01.04.2005 relating to the purchases of the Glass bottles, Coolers, stores and spares during the year 2004-05.

2. The request of the petitioner, i.e., M/s. Pearl Beverages Limited for the tax paid under APGST for a claim of relief of Rs.12,65,333/- on purchase of coolers and amount of Rs.1,98,224/- on Stores, spares, and Rs.9,75,085/- on glass bottles is disallowed on the ground that the coolers are not for resale purpose and the claim of glass bottles purchased for Rs.2,43,77,122/- is verified and noticed that during this year, the breakages are estimated to be Rs.1 crore, hence, the claim of Rs.4,00,000/- is disallowed and the other claim of Rs.1,98,224/- being taxes paid on stores, spares, etc., is also disallowed, as there is no

provision in the Act, vide proceedings dated 06.09.2025 by the Assistant Commissioner, Large Tax Payer Unit, Guntur Division.

3. Against the said proceedings, the petitioner herein has made a representation dated 27.09.2005 to the Assistant Commissioner (CT), Large Tax Payer Unit, adverting that under Section 13(1) of the AP VAT Act, tax paid on purchase of all taxable goods in an eligible input tax credit, if such goods are for use in the business of a VAT dealer, that the definition of business includes any trade, commerce or manufacture and any transaction incidental to such trade, commerce or manufacture and coolers are essential for their business of soft drinks, as the customers normally prefer to consume them in chilled condition. The use of goods in a business which is a wide expression under the Act and the Input Tax Credit is not confined to goods meant for trading alone as construed in the notice. The capital goods, raw materials, consumables are all eligible for Input Tax Credit, except those which are disqualified under Rule 20(2) of the APVAT Rules. Coolers are not mentioned in the said Rule. In the said circumstances, the appellant requested to allow the claim of Rs.12,65,333/- on coolers which are essentially used in their business and eligible for credit under Section 13 read with Section 2(6) of the AP VAT Act.

4. It is asserted in the said representation, for claim of Rs.9,75,085/- on glass bottles that the glass bottle is just like a raw-material and the only difference is that raw material fully gets consumed, whereas breakages of glass are generated in the process of manufacturing in addition, which is sold as scrap and tax/vat thereon is paid as per the rate applicable. And it is additionally stated that the sale of scrap of glass breakages and not as glass and hence, the disallowance of Rs.4,00,000/- on account of breakages is unreasonable and bad in law. And it is further asserted in the said representation regarding claim of Rs.1,98,224/-, on stores, spares, etc. It is claimed that the stores and spares on which credit has been claimed is mainly comprising of spares of engineering, mechanical, packing material, electrical (other than that of DG sets) chemicals, lab, printing & stationery, etc., and the appellant have claimed credit on spares which are meant for transport and other items which are appearing in the negative list as per Rule 20(2) of the AP VAT Rules and the Input Tax Credit is available for all goods put to use in the business, stores, spares, etc., are essential goods for their business. Hence, prayed to allow the claim of Rs.1,98,224/- on stores and spares.

5. After considering the said representation dated 27.09.2005, the Commercial Tax Officer, Large Taxpayer Unit Circle, Guntur Division, has rejected the claim, vide proceedings dated 27.10.2005, on the ground that as per the provisions of the Act, the capital goods, raw materials, consumables are eligible for Input Tax Credit and coolers purchased by them are neither capital goods, nor raw materials nor consumables and the coolers are given to retail outlets only after collecting full value from the outlet and they are not used in their business. Hence, their claim was not accepted by the Commercial Tax Officer.

6. Accordingly, the Input Tax Credit from the glass bottles was also rejected on the ground that they had opening stock of Rs.17.31 crores and then they have purchased Rs.2.30 crores worth of bottles during 2004-05 and out of this total stock of Rs.19.61 crores worth of bottles, there was a breakage of bottles worth of Rs.1.02 crores and further observed that the FIFO principle should be followed and in that case, the breakages are from stocks purchased prior to 31.03.2004 only is eligible and it is further observed that a new bottle may be broken on the day of purchase/receipt, nobody can given guarantee or say that the bottle is not over and hence it cannot be broken. It is only a chance.

Even old bottles may not be broken for years together. Hence FIFO, i.e., 'first-in first-out' principle was denied as it is not applicable. Hence, out of the appellant claim of Rs.9,75,085/-, an amount of Rs.58,505/- was rejected and allowed on Rs.9,17,000/- proportionately. And a third claim of Rs.1,98,224/- for stores was rejected, as they do not fall under the definition of Section 2(6) of the Act.

7. Aggrieved by the orders of the Commercial Tax Officer, Large Tax Payer Unit dated 27.10.2005, the petitioner has preferred appeal before the Appellate Deputy Commissioner (CT), Guntur, and the Appellate Deputy Commissioner has allowed the appeal on the ground that without coolers, the business of soft drinks comes to a standstill and the un-chilled beverages are un-palatable. So, as an integral and an important item in this business and held that the coolers are Vatable, when they are sold for the same deposit amount at the end of the contract period and, accordingly, to that extent, appeal is allowed.

8. Regarding the second item, the Appellate Deputy Commissioner has held that the authorised representative produced a statement of all the purchases made during the year 2004-05, which shall be Rs.2,43,77,122/- and the difference shown is the excise duty on which

the appellant has claimed MODVAT. Thus the appellant is eligible for the remaining Rs.58,085/-. Accordingly, allowed the appeal.

9. A *suo moto* revision has been taken by the office of the Commissioner of Commercial Taxes, Andhra Pradesh, and, accordingly, issued a show cause notice dated 12.08.2008 and the petitioner has submitted a detailed explanation to the show cause notice dated 12.08.2008 and the Joint Commissioner (CT) (Legal), vide order dated 24.03.2009, allowed the said revision case, observing that on scrutiny of the material on record, it is noticed that coolers are not eligible for Input Tax Credit under the provisions of APVAT Act and as per Rule 20, sub-rule (2) and clause (n) of APVAT Rules, refrigerators, coolers, deep freezers purchased by soft drink manufacturers are not eligible for Input Tax Credit and, accordingly, it is stated that the appellant (Pearl Beverages Limited) is not entitled for any Sales Tax relief on the purchases of coolers, rejecting the contention raised by the appellant (Pearl Beverages Limited) without adhering that the amendment introduced i.e., clause (n) to sub-rule 2 to rule 20 of AP VAT Rules is pending consideration before the erstwhile High Court of Andhra Pradesh.

10. The second contention raised with regard to the breakages of bottles was rejected on the ground that the broken bottles cannot be said to be the goods purchased during the year 2004-05 and held that the broken bottles are not eligible for tax relief.

11. Aggrieved by the orders of the Joint Commissioner (CT) (Legal), the petitioner has filed appeal before the Andhra Pradesh Value Added Tax Appellate Tribunal, Visakhapatnam, on the rejection/disallowance of the claim on the ground that the coolers are not meant for resale purpose, and the petitioner contended that the coolers are the assets in the business and form part of their block of assets for the purpose of depreciation and the coolers purchased during the year 2004-05 put to use in their business. *Inter alia*, it is contended that claiming Input Tax Credit is use of goods in the business which is a wide expression under the Act and the Input Tax Credit is not confined to goods meant for trading alone as construed in the revision order and the capital goods, raw materials, consumables are all eligible for Input Tax Credit, except those which are disqualified under Rule 20(2) and the coolers are not mentioned in the said Rule.

12. The A.P.Value Added Tax Appellate Tribunal has dismissed the appeal, vide order dated 25.04.2024, after summing up of the oral and

documentary evidence adduced by the Assessing Officer and the revision petitioner herein and held that the purchases of coolers by soft drink manufacturers are not for use in their manufacturing premises was disentitled from Input Tax Credit under clause (n) of sub-rule (2) of Rule 20 as it fall under the negative list of goods mentioned in clause (d) of sub-rule (2) of Rule 37 of the AP VAT Rules, 2005. As per the said Rules, the freezers purchased by soft drink manufacturers are not eligible for Input Tax Credit and the Tribunal answered the issue in favour of the Revenue and against the appellant (Pearl Beverages Limited). With regard to the issue relating to the broken bottles, they were not shown in the closing stock as held by the Joint Commissioner (CT) (Legal). Hence, held that the appellant is not eligible for sales tax relief.

13. Aggrieved by the said order dated 25.04.2024, the present Tax Revision Case No.10 of 2024 is filed invoking Section 22(1) (Rule 40) of the Andhra Pradesh General Sales Tax Act, 1957, read with Sections 34(1) and Section 80 of the A.P. Value Added Tax Act, 2005.

14. The counsel for the revision petitioner herein mainly rested his argument on the grounds that clause (n) of Rule 20(2) of the APVAT Rules was added with retrospective effect from 01.04.2005, the

judgment in *Asian Peroxide Limited vs. State of Andhra Pradesh* reported in 39 VST 529 (AP), would equally apply to clause (n), and no retrospective effect could be given so as to adversely affect the revision petitioner's case.

15. And the further contention of the petitioner/assessee is that breakages of bottles take place in the process of manufacturing, hence it forms part of cost of production, cost of sale and the damaged/broken bottles were not reused or manufactured of the bottles and same were sold as scrap on payment of duty on nominal value, that the duty paid by them on broken/ damaged bottles is entitled for Input Tax Credit.

16. As seen from the docket proceedings dated 16.10.2024, the tax revision was adjourned on the ground that the matter required further consideration. The revision petitioner herein raised a ground before this Court, stating that the contention raised before the Appellate Tribunal with respect to clause (n), based on the judgment of the composite High Court in *Asian Peroxide Limited vs. State of Andhra Pradesh*, was not accepted on the ground that the said judgment related to clause (h) and not clause (n). The revision petitioner argues that the issue (case) falls under clause (n). He submits that, by the same notification, clause (n) was also added with retrospective effect from 01.04.2005.

Consequently, the said judgment would equally apply to clause (n), and no retrospective effect could be given so as to adversely affect the revision petitioner's case. The Tax Revision Case has now been taken up for consideration on 11.03.2025 by this Court.

17. The challenge in this tax revision case is that the delegated legislation of amendment to Rule 20(2)(n) vide, G.O.Ms.No.2201, Rev. (CT-II) Dept. dated 29.12.2005, introduced under section 13(1) of the VAT act denying the ITC for coolers would not effect retrospectively.

18. Clause (n) to sub-rule (2) of Rule 20 of the AP VAT Rules envisages that refrigerators, coolers and deep freezers purchased by Soft Drink Manufacturers not for use in their manufacturing premises are not entitled for the Input Tax Credit.

19. Learned counsel appearing for the revision petitioner would submit that the said clause was inserted retrospectively and contended that, it is contrary to law and in the judgment of *Asian Peroxide Limited Vs. State of Andhra Pradesh* (1 supra), clause (h) amendment was struck down by the common High Court and the same is applicable to the present facts of the case to the amendment clause (n) and he would pray to allow the revision case by setting aside the order of the

Assessing Officer which was confirmed by the A.P.Value Added Tax Appellate Tribunal dated 25.04.2009.

20. Heard Sri A.Sarveswara Rao, learned counsel for the revision petitioner and Smt. V.Disha Chowdary, learned Assistant Government Pleader for Commercial Taxes appearing for the respondent.

21. Learned Assistant Government Pleader for Commercial Taxes would submit that the amendment clause applies retrospectively and the judgment relied on by the revision petitioner in *Asian Peroxide Limited Vs. State of Andhra Pradesh* (1 supra) is not applicable to the present facts of the case and each clause will have a distinct meaning and the amended clause regarding clause (h) of sub-rule (2) of Rule 20 of the AP VAT Rules that was struck down cannot be compared with the current provision, i.e., clause (n) of sub-rule (2) of Rule 20, hence prayed to dismiss the revision case.

22. After hearing both sides, the point that arises for consideration is that whether the amendment introducing clause (n) to sub-rule (2) of Rule 20 of the AP VAT Rules, 2005, is with retrospective or prospective effect?

23. Retort to the arguments put forth by both the learned counsels, this Court delivers the following order:

24. The Hon'ble Apex Court in a case of *Union of India and another Vs. Pradeep Kumari and others* reported in (1995) 2 SCC 736, *inter alia* held that in relation to beneficial legislation, the law is well-settled that while construing the provisions of such a legislation, the Court should adopt a construction which advances, the policy of the legislation to extend the benefit rather than a construction which has the effect of curtailing the benefit conferred by it.

25. The Hon'ble Apex Court in *Girdhari Lal & Sons Vs. Balbir Nath Mathur & Others*, reported in (1986) 2 SCC 237 relying on the other decisions of the Hon'ble Apex Court held that the object and purpose of the amendment to remove the mischief and defect for which the amendment was necessitated is required to be considered and borne in mind and the Parliament's intention is ascertained and the object and purpose of the legislation is known, it then becomes the duty of the Court to give the statute a purposeful or a functional interpretation.

26. In *Koteswar Vittal Kamath Vs. Rangapa Baliga & Co.*, reported in (1969) 1 SCC 255 a three-Judge Bench of the Hon'ble Apex Court emphasised the distinction between "supersession" of a rule and "substitution" of a rule and held that the process of substitution consists of two steps: first, the old rule is made to cease to exist and, next, the

new rule is brought into existence in its place.” With respect to the presumption against retrospective operation, it is observed and held as under in para 14 and 15:-

> 14. The presumption against retrospective operation is not applicable to declaratory statutes…. In determining, therefore, the nature of the Act, regard must be had to the substance rather than to the form. If a new Act is “to explain” an earlier Act, it would be without object unless construed retrospectively. An explanatory Act is generally passed to supply an obvious omission or to clear up doubts as to the meaning of the previous Act. It is well settled that if a statute is curative or merely declaratory of the previous law retrospective operation is generally intended.
>
> An amending Act may be purely declaratory to clear a meaning of a provision of the principal Act which was already implicit. A clarificatory amendment of this nature will have retrospective effect (ibid., pp. 468-69).
>
> 15. Though retrospectivity is not to be presumed and rather there is presumption against retrospectivity, according to Craies (Statute Law, 7th Edn.), it is open for the legislature to enact laws having retrospective operation. This can be achieved by express enactment or by necessary implication from the language employed. If it is a necessary implication from the language employed that the legislature intended a particular section to have a retrospective operation, the courts

will give it such an operation. In the absence of a retrospective operation having been expressly given, the courts may be called upon to construe the provisions and answer the question whether the legislature had sufficiently expressed that intention giving the statute retrospectivity. Four factors are suggested as relevant: (i) general scope and purview of the statute; (ii) the remedy sought to be applied; (iii) the former state of the law; and (iv) what it was the legislature contemplated. The rule against retrospectivity does not extend to protect from the effect of a repeal, a privilege which did not amount to accrued right. (Meaning In simpler terms, if a law gives you a privilege or benefit that you have not yet fully earned or that is not considered an "accrued right," and that law is repealed, you do not have the protection of the rule against retrospectivity to stop that repeal from affecting.

27. In a recent decision of this Court in National Agricultural Coop. Marketing Federation of India Ltd. v. Union of India[(2003) 5 SCC 23] it has been held that there is no fixed formula for the expression of legislative intent to give retrospectivity to an enactment. Every legislation whether prospective or retrospective has to be subjected to the question of legislative competence. The retrospectivity is liable to be decided on a few touchstones such as: (i) the words used must expressly provide or clearly imply retrospective operation; (ii) the retrospectivity must be

reasonable and not excessive or harsh, otherwise it runs the risk of being struck down as unconstitutional; (iii) where the legislation is introduced to overcome a judicial decision, the power cannot be used to subvert the decision without removing the statutory basis of the decision. There is no fixed formula for the expression of legislative intent to give retrospectivity to an enactment. A validating clause coupled with a substantive statutory change is only one of the methods to leave actions unsustainable under the unamended statute, undisturbed. Consequently, the absence of a validating clause would not by itself affect the retrospective operation of the statutory provision, if such retrospectivity is otherwise apparent.

28. The Hon'ble Apex Court following the observations from the decision of the Constitutional Bench in *S.G.Jaisinghani Vs. Union of India and Others* reported in (1967) 65 ITR 234 and *Kumari Shrilekha Vidyarthi Etc. Vs. State of U.P. and others* reported in (1991) 1 SCC 212 held that "*In this context, it is important to emphasise that the absence of arbitrary power is the first essential of the rule of law upon which our whole constitutional system is based. In a system governed by rule of law, discretion, when conferred upon executive authorities, must be confined within clearly defined limits. The rule of law from this point of*

view means that decisions should be made by the application of known principles and rules and, in general, such decisions should be predictable and the citizen should know where he is. If a decision is taken without any principle or without any rule, it is unpredictable and such a decision is the antithesis of a decision taken in accordance with the rule of law."

29. The Hon'ble Supreme Court in *Koteswar Vittal Kamath Vs. Rangapa Baliga & Co.* Case (supra), has suggested four factors as relevant to give the statute retrospectivity: (i) general scope and purview of the statute; (ii) the remedy sought to be applied; (iii) the former state of the law; and (iv) what it was the legislature contemplated. The rule against retrospectivity does not extend to protect from the effect of a repeal, a privilege which did not amount to accrued right. Meaning in simpler terms, if a law gives a privilege or benefit that not yet have fully earned or that is not considered an "accrued right," and that law is repealed, one person do not have the protection of the rule against retrospectivity to stop that repeal from affecting one person.

30. The Hon'ble Supreme Court in *A.A.Calton Vs. The Director of Education and another* reported in (1983) 3 SCC 33, held that the legislature may pass laws with retrospective effect subject to the

recognized constitutional limitations and that no retrospective effect should be given to any statutory provision so as to impair or take away an existing right, unless the statute either expressly or by necessary implication directs that it should have such retrospective effect.

31. The Hon'ble Apex Court in *Shah Bhojraj Kuverji Oil Mills and another Vs. Subbash Chandra Yograj Sinha* reported in AIR 1961 SC 1596 = 1961 SCC Online SC 60 held that the ordinary rule that substantive rights should not be held to be taken away except by express provision or clear implication, many Acts, though prospective in form, have been given retrospective operation, if the intention of the legislature is apparent.

32. According to the law as laid out by the Apex Court in aforementioned rulings, in the present case on hand, whether the right that has accrued and become vested under Section 13(2) of the AP VAT Act can be revoked retrospectively. Relevant provisions are extracted for facility and affective disposal of the issue raised in the case.

Credit for Input Tax is available Under **Section 13(2)(a)**: reads thus:

> (2) (a) A dealer registered as a VAT dealer on the date of commencement of the Act, shall be entitled to claim for the sales tax paid under APGST Act, 1957 (Act VI of 1957) [on the

stock held in any form in the State] [Substituted for 'On the Stock held in the state' by Act No. 34 of 2006, w.r.e.f.1-4-2005.]on the date of commencement of the Act subject to the conditions and in the manner as may be prescribed:

Provided that such goods should have been purchased from 1.4.2004 to 31.03.2005 and are goods eligible for input tax credit.

(b) Subject to the conditions if any, prescribed, input tax credit shall be allowed to a VAT dealer on registering as VAT dealer if any input tax is paid or payable in respect of all purchases of taxable goods, where such goods are for use in the business as VAT dealer, provided the goods are in stock on the effective date of registration and such purchase occurred not more than three months prior to such date of registration.

Rule 37(2)(d) of APVAT Act, 2005 reads as follows:

37. Conditions for the Relief of Sales Tax at the Commencement of Act.

(2)(d) envisages or postulates that "The sales tax credit allowed shall be subject to the conditions of Rule 20;"

33. The contention of revision petitioner in this revision petition is that the petitioner is eligible for Sales Tax Relief on the purchases of coolers, which are purchased during the year 2004-05. And the petitioner has purchased during the relevant period.

> **Note**: Clauses (n)(o) and (p) were added by G.O.Ms.No.2201 Rev. Dt.29.12.2005 with retrospective effect from 01.04.2005.
> After amendment rule clause (n) was introduced to sub-rule (2) to rule (20) of AP VAT Rules.
> Rule 20 envisages about Input Tax Credit. Sub-rule (2) spells out about negative list.
> Under Sub-rule 2, the following shall be the items not eligible for input tax credit as specified in sub-section (4) of section 13.
> Clause (n)“refrigerators, coolers and deep freezers purchased Soft Drink [and ice cream] Manufacturers not for use in their manufacturing premises
> In Rule 20(2)(h), the items were substituted.”

34. Under Rule 20(2) (n) of the AP VAT Rules, 2005, the refrigerators, coolers and deep freezers purchased by Soft Drink and ice cream manufacturers not for use in their manufacturing premises are not eligible for input tax credit as specified in sub-section (4) of Section 13 of the AP VAT Act in view of the amendment introduced as they were placed in the negative list under section rule 37 of VAT Rules.

35. As seen from the Judgement of the Hon’ble Supreme Court in *A.A.Calton Vs. The Director of Education and another (referred supra)*, the legislature may pass laws with retrospective effect subject to the recognized constitutional limitations and that no retrospective effect

should be given to any statutory provision so as to impair or take away an existing right, unless the statute either expressly or by necessary implication directs that it should have such retrospective effect. This Section was amended retrospectively and effective remedy has taken away by the amendment. A clarificatory amendment will have retrospective effect, but not a declaratory amendment. As seen from the amendment, it was not a clarificatory amendment, it was a declaratory and effective.

36. Even in the judgment of the *Asian Peroxide Limited vs. State of Andhra Pradesh* (referred supra) it was held after referring plethora of judgments of the Apex Court "thus a right accrued to the assessee on the date when they paid the tax on the materials or the inputs and the right would continue until the facility available there gets work out or until the goods existed.

37. According to a plain reading of Rule 20(2) of the AP VAT Rules, 2005, the revision petitioner, M/s Pearl Beverages, is entitled to and eligible for the Input Tax Credit (ITC) on refrigerators, coolers, and deep freezers purchased by manufacturers of soft drinks and ice cream. This is because the right was taken away due to an amendment made under Section 37 of the AP VAT Act, which introduced provision (n) to the

negative list without providing any justification. The amendment is not clarifying, and since a vested cannot be taken away retrospectively, it is unfair, and arbitrariness applies.

38. The Sales Tax Appellate Tribunal has given different meaning to the retrospective effect and contrary to the judgment of the Hon'ble Apex Court and to the law laid in *Asian Peroxide Limited Vs. State of Andhra Pradesh* (supra). Thus, the right accrued to the revision petitioner/Assessee/Pearl Beverages Limited on the date when they paid tax cannot be taken away by way of amendment. As held by the apex court in several decisions referred above that a rule cannot be applied retrospectively removing the accrued or vested right, as the amendment has not given any reason for effecting retrospectively.

39. The second contention raised by the counsel for the revision petitioner is that of the petitioner/assessee is that breakages of bottles take place in the process of manufacturing, hence it forms part of cost of production, cost of sale and the damaged/broken bottles were not reused or manufactured and same were sold as scrap on payment of duty on nominal value that the duty paid by them on broken/ damaged bottles is entitled for Input Tax Credit.

40. Capitalised goods also known as capital assets or producer of goods, are tangible assets used by business to produce other or service, like machinery, buildings and equipment, and not intended for direct consumption.

41. An Input Tax Credit can be claimed when a manufacturer buys a raw material and pays a certain amount of tax on those purchases. They can deduct that tax amount from the tax they need to pay when selling their finished products. Where in the case on hand the petitioner / assessee who purchased glass bottles for not to use for manufacture to produce some other product by using the product purchased and petitioner is not the manufacturer of the bottles. The petitioner / assessee has purchased the bottles for storing of the liquid which does not fall under the manufacturing of another product.

42. The contention of the petitioner / assessee is that FIFO (First in First out) method would be applicable. FIFO method is generally used to determine the value of any item moving out of a stock account and those remaining in stock at any point of time. When applied to an account holding dematerialised stock, it implies that, out of the existing holdings, the item that first entered into the account is deemed to be the

first to be sold out. There is no evidence the product moved of stock those remaining in stock and they are invoiced.

43. The second issue is answered against to the revision petitioner.

44. Accordingly, the impugned order under challenge of the Sales Tax Appellate Tribunal is hereby set aside to the extent indicated above. The amount paid by the revision petitioner is refundable to the extent of input tax credit on the coolers and refrigerators. The revision petitioner is entitled to the input tax credit for the coolers and refrigerators, while the rest of the claim is rejected.

45. The Tax Revision Case is, therefore, allowed partly. There shall be no order as to costs.

As a sequel, interlocutory applications pending, if any, in this case shall stand closed.

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JUSTICE NINALA JAYASURYA

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JUSTICE TARLADA RAJASEKHAR RAO

Date: 07.05.2025
siva

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

AND

THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

TAX REVISION CASE No.10 OF 2024

Date:07.05.2025

siva