# State Of A.P vs Hyderabad Asbestos Cement Production ... on 28 April, 1994

## Equivalent citations: 1994 AIR 2364, 1994 SCC (5) 100, AIR 1994 SUPREME COURT 2364, 1994 (5) SCC 100, 1994 AIR SCW 2384, 1994 (119) CURTAXREP 24, 1994 (20) UPSTJ 103, 1994 KERLJ(TAX) 425, 1994 BRLJ 138, (1994) 3 JT 456 (SC), (1994) 3 SCR 785 (SC), 1994 UPSTJ 20 103, (1994) 119 CURTAXREP 240, (1994) 2 SCJ 293, (1994) 94 STC 410

## Author: B.P. Jeevan Reddy

## Bench: B.P. Jeevan Reddy, M.M. Punchhi

PETITIONER:
STATE OF A.P.

Vs.

RESPONDENT:
HYDERABAD ASBESTOS CEMENT PRODUCTION LTD.

DATE OF JUDGMENT28/04/1994

BENCH:
JEEVAN REDDY, B.P. (J)
BENCH:
JEEVAN REDDY, B.P. (J)
PUNCHHI, M.M.

CITATION:
1994 AIR 2364 1994 SCC (5) 100
JT 1994 (3) 456 1994 SCALE (2)726

ACT:

HEADNOTE:

JUDGMENT:

The Judgment of the Court was delivered by B.P. JEEVAN REDDY, J.- Rates of tax on sales effected in the course of inter-State trade or commerce are prescribed by Section 8 of the Central Sales Tax Act, 1956. The rates prescribed vary depending upon the person to whom the goods are sold as well

as the nature of the goods. A reading of sub-sections (1) and (2) yields the following position:

> (1) In the case of sale to Government of any goods, the rate is 4%.[Section8(1)(a)]. (2) On sale of goods of the description referred to in sub-section (3) to a registered dealer other than the Government - @ 4%. [Section 8(1)(b)]. (3)In the case of sales not falling under sub-

section (1) of Section 8, the tax on turnover shall be calculated at twice the rate applicable to the sale or purchase of such goods inside the appropriate State, if they are declared goods. [Section 8(2)(a)].

(4)In the case of sale of goods other than declared goods and not failing under sub-section (1), tax shall be levied at the rate of 10% or at the rate applicable to the sale or purchase of such goods inside the appropriate State, whichever is higher. [Section 8(2)(b)].

2.Sub-section (2-A) provides for a lower rate of tax, or exemption from tax, as the case may be, in certain situations which it is not necessary to notice here. Sub-section (3) specifies the goods for the purpose of Section 8(1)(b); it is also not necessary to notice the nature of these goods. Sub- section (4), which is the main provision relevant for our purpose, reads thus:

> " (4) The provisions of sub-section (1) shall not apply to any sale in the course of inter-State trade or commerce unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner
>
> (a) a declaration duly filled and signed by the registered dealer to whom the goods are sold containing the prescribed particulars in a prescribed form obtained from the prescribed authority; or
>
> (b)if the goods are sold to the Government, not being a registered dealer, a certificate in the prescribed form duly filled and signed by a duly authorised officer of the Government:
>
> Provided that the declaration referred to in clause
>
> (a) is furnished within the prescribed time or within such further time as that authority may, for sufficient cause, permit."

[The proviso to sub-section (4) was added by the Central Sales Tax (Amendment) Act (Act 61 of 1972) with effect from 1-4-1973.]

3. Sub-section (4) thus prescribes a condition for applicability of sub-section (1) of Section 8. It says that if a dealer wishes to avail of the lower rate of tax prescribed by sub-section (1), he has to comply with the requirements prescribed by it. If the sale is to the Government [Section 8(1)(a)] the selling dealer must produce before the prescribed authority (assessing authority) a certificate in the prescribed form duly filled and signed by a duly authorised officer of the Government. The rules

made under the Act have prescribed the form of the certificate contemplated by the clause it is called 'Form-D'. Similarly, if the selling dealer says that he (Jeevan Reddy, J.) has sold the goods of the description referred to in sub-section (3) to a registered dealer [Section 8(1)(b)] he shall have to produce a declaration duly filled and signed by a registered dealer to whom the goods are sold containing the prescribed particulars in the prescribed form obtained from the prescribed authority. The Rules made under the Act have prescribed the form in which such declaration has to be issued by the purchasing dealer it is called 'Form-C'. In case form-D or Form-C is produced, the assessing authority would levy tax on inter-State sales @ 4% only; otherwise the sales will attract the higher rate of tax prescribed in sub-section (2).

4.Before we deal with the proviso to sub-section (4), it would be appropriate to refer to the rule relevant in this behalf. It is Rule 12. It is a lengthy rule containing as many as ten sub- rules. Sub-rule (1) says that the certificate and the declaration referred to in clauses (a) and (b) of sub-section (4) of Section 8 shall be in Forms C and D respectively. The other provisions in sub-rule (1) and sub-rules (2) to (6) deal with various aspects relating to the said forms which it is not necessary to refer to for the purpose of this case. Sub-rule (7) reads as follows:

> "(7) The declaration in Form 'C' or Form 'F' or the certificate in Form 'E-I' or Form 'E-II' shall be furnished to the prescribed authority up to the time of assessment by the first assessing authority:
>
> Provided that if the prescribed authority is satisfied that the person concerned was prevented by sufficient cause from furnishing such declaration or certificate within the aforesaid time, that authority may allow such declaration or certificate to be furnished within such further time as that authority may permit."

[It may be noted that proviso to sub-rule (7) was added in the year 1972 with effect from 1-4-1972, i.e., the date on and from which the proviso to sub-section (4) of Section 8 was added by the Amendment Act 61 of 1972.] Sub-rule (7), it is evident, deals with Form-C and certain other forms. It does not deal with Form-D. The main limb of sub-rule says that the declaration in Form-C shall be furnished to the prescribed authority (which means the assessing authority) up to the time of assessment by the first assessing authority.

5.At this stage, we may consider the reasons for which the proviso to sub-section (4) was added by the Amending Act 61 of 1972 and the proviso to sub-rule (7) of Rule 12 was inserted. In STO v. K.I. Abraham1, it was held by this Court that the phrase "in the prescribed manner" occurring in Section 8(4) of the Act confers upon the rule-making authority the power to prescribe a rule stating the particulars to be mentioned in the prescribed form, the nature and the value of the goods sold, the parties to whom they are sold and to which authority the- form is to be furnished but that it does not authorise the rule-making authority to prescribe a time-limit within which the 1 (1967) 20 STC 367: AIR 1967 SC 1823: (1967) 3 SCR 518 declaration is to be filed by the registered dealer. With a view to remedy the lacuna pointed out by this Court, Parliament enacted the aforesaid (Amendment) Act 61 of 1972. The proviso empowers the rule-making authority to prescribe the time within which Form-C, i.e., the declaration referred to in clause (a) of sub-section (4) is to be furnished. The

proviso not only empowers the rule-making authority to prescribe such time but also to provide that for sufficient reasons, the assessing authority may permit the said forms to be filled within the time prescribed. Pursuant to the said proviso, the rule-making authority introduced the proviso to sub-rule (7). While the main limb of sub-rule (7) says that Form-C can be furnished "up to the time of the assessment by the first assessing authority", the proviso says that if the prescribed authority is satisfied that the dealer was prevented by sufficient cause from furnishing such certificate "within the aforesaid time-limit" he may allow such certificate to be furnished within such further time as he may permit. Reading sub-rule (7) as a whole it follows that Form-C shall be furnished up to the time of assessment by the first assessing authority but in a proper case the prescribed authority (which means in the context the assessing authority) may permit such forms to be filed within such further time as he may permit. This necessarily means that the assessing authority will complete the assessment but at the same time permit the dealer to file Form-C within the time specified by him. In case the dealer files form-C within the time specified, it is obvious, the assessing authority will revise the order of assessment granting the requisite relief.

6.Having noticed the relevant provisions of law, we may now turn to the question arising in these matters. It is this: Where a dealer does not furnish Form-C before the first assessing authority up to the time of assessment, can he be permitted to file the said forms in the appeal preferred by him, i.e., before the first or the second appellate authority? In other words, the question is whether the appellate authority, whether the first or the second appellate authority has the power to receive Form-C in appeal and to grant relief, in case the dealer satisfies the appellate authority that he had sufficient cause for not producing the said certificate before the first assessing authority? The Revenue says that the appellate authorities have no such power inasmuch as Rule 12 expressly provides that such forms shall be furnished "up to the time of assessment by the first assessing authority" and also because power to extend the time for filing these forms is vested by the proviso to sub-rule only in the assessing authority. The contention is that sub- section (4) of Section 8 read with sub-rule (7) of Rule 12 provides for a benefit, for a partial exemption from the tax liability. If any dealer wishes to avail of such benefit or partial exemption, he has to comply with the relevant provisions strictly and fully. The benefit of the said provisions can be extended only if the relevant conditions are satisfied and in the manner prescribed by the Act and the Rule and in no other manner. The requirements prescribed by Rule 12(7) have to be followed in letter and spirit. No equities are involved in such a matter nor can the concept of substantial compliance be invoked in such a case. On the other hand, the dealers' case is that the (Jeevan Reddy, J.) power of the appellate authority is co-extensive with that of the first assessing authority and, therefore, what can be done by the first assessing authority can equally be done by the appellate authority, whether first or the second appellate authority, It is pointed out that the power of appeal under the State Sales Tax enactments concerned herein [which have to be read into the Central Sales Tax Act by virtue of Section (9)] is different in character and scope from an appeal under the Code of Civil Procedure. An appellate authority under the Tamil Nadu and Andhra Pradesh Sales Tax enactments has the power not only to confirm, reduce or annul the orders under appeal but also to enhance the tax liability even though the appeal is preferred by the dealer. In short, the appeal in particular the first appeal is in the nature of a reassessment where the whole assessment is open even though the dealer may have filed the appeal confined to certain aspects. The learned counsel for the dealers point out that no particular sanctity attaches to the use of the appellation "first assessing authority" in sub-rule (7)

of Rule

12. They also point out that the Andhra Pradesh Sales Tax Appellate Tribunal is expressly empowered by the Regulations made under the Act to receive additional evidence which too indicates the power of the Tribunal to receive Form-C by way of additional evidence. Almost all the High Courts except the Madhya Pradesh High Court have upheld the contentions urged by the dealers. In Madras High Court, a Bench had taken the view in State of TN. v. Chellaram Garments (P) Ltd.2 that the appellate authority has no such power and that the only course open to it in such a case is to send the matter back to the assessing authority for the purpose of considering the entertainability of Form-C. [Indeed, this appears to be the view taken by the Madras High Court in two earlier decisions, viz., Deputy Commissioner (Commercial Taxes), Coimbatore Division, Coimbatore v. Parekutti Hajee Sons3 and Deputy Commissioner of Commercial Taxes, Madras Division v. Manohar Brothers4]. Later on, however, a Full Bench of that Court held in State of TN. v. Arulmurugan & Co.5 that the appellate authorities do have such powers, disagreeing with the earlier judgment in Chellaram Garments2.

7.The matters before us are from two States, Tamil Nadu and Andhra Pradesh. Sub-section (1) of Section 9 of the Central Sales Tax Act provides that the tax under the Act shall be levied and collected by the Government of India in accordance with the provisions of sub-section (2). Sub-section (2) says that the machinery under the respective State Sales Tax enactments shall be the machinery for assessing, reassessing and calculating the Central Sales Tax on behalf of the Government of India. The authorities under the State enactment can exercise all or any of the powers conferred upon them by the relevant State enactment for the purposes of assessing, reassessing and calculating the Central Sales Tax. All the provisions of the State 2 (1979) 44 STC 239 (mad) 3 (1962)13 STC 680 (Mad):AIR 1963 Mad 125 4 (1962) 13 STC 686 (Mad) : AIR 1962 Mad 410 5 (1982) 51 STC 381 (Mad) enactments relating to assessment, appeals, revisions, reviews and other proceedings are made equally applicable for the said purpose. In view of this, it would be relevant to notice the nature and character of the appellate power under the aforesaid two State enactments. Section 31 of the Tamil Nadu General Sales Tax Act, 1959 provides for an appeal to the Appellate Assistant Commissioner against the orders passed by the appropriate authority under the sections specified therein. Sub-section (3) of Section 31 provides that in an appeal against an order of assessment, the Appellate Assistant Commissioner shall have the power to "confirm, reduce, enhance or annul the assessment or the penalty or both", to set aside the assessment and direct the assessing authority to make a fresh assessment after such further enquiry as may be directed, as also to pass such other orders as he may think fit. Similar powers are available even where the appeal is against an order other than an order of assessment. Section 31-A provides for an appeal to the Deputy Commissioner against the orders specified therein. Sub-section (3) of Section 31-A confers powers upon the Deputy Commissioner similar to those conferred by Section 31(3). Section 36 provides for an appeal to the Appellate Tribunal against the orders of the Appellate Assistant Commissioner as well as the Deputy Commissioner. Sub- section (3) of Section 36 again is in the same terms as sub- section (3) of Section 31 and sub-section (3) of Section 31-A. The position under the Andhra Pradesh General Sales Tax Act is no different. Section 19 provides for an appeal to the specified authority. Sub-section (3) of Section 19 [which corresponds to sub-section (3) of Section 31 in the Tamil Nadu Act] reads:

"(3) The appellate authority may, after giving the appellant an opportunity of being heard and subject to such rules of procedure as may be prescribed:

(a) confirm, reduce, enhance or annul the assessment or the penalty,or both; or

(b) set aside the assessment or penalty, or both, and direct the assessing authority to pass a fresh order after such further enquiry as may be directed; or

(c) pass such other orders as it may think fit."

8.Sub-section (4) says that before passing orders under sub- section (3), the appellate authority may make such enquiry as it thinks fit or remand the case to any subordinate officer or authority for inquiry and report on any specified point or points. Section 21 provides for a second appeal to the Appellate Tribunal and sub-section (4) of Section 21 is again in the same terms as Section 19(3). In exercise of the power conferred upon it by sub-section (3) of the Andhra Pradesh Act, the Sales Tax Appellate Tribunal has made certain Regulations regulating its procedure and disposal of its business. Regulation 11 empowers the Tribunal inter alia to receive additional evidence. Sub-regulation (1) is practically in the same terms as Rule 27 of Order 41 of the Code of Civil Procedure. Regulation 11 (1) reads as below:

(Jeevan Reddy, J.) "11. Fresh evidence and witnesses.- (1) The party or the respondent shall not be entitled to produce additional evidence, whether oral or documentary, before the Tribunal, but-

(a) if the authority from whose order the appeal is preferred has refused to admit evidence which ought to have been admitted, or

(b) if the party or the respondent seeking to adduce additional evidence satisfies the Appellate Tribunal that such evidence, notwithstanding the exercise of due diligence, was not within his knowledge or could not be produced by him at or before the time when the order under appeal was passed, or

(c)if the Tribunal requires any documents to be produced or any witnesses to be examined to enable it to pass orders, or

(d)for any other sufficient reason the Tribunal may allow such evidence or documents to be produced or witnesses examined:

Provided that the other party shall, in such cases, be entitled to produce rebutting evidence, if any."

9.It appears that the Tamil Nadu and Andhra Pradesh enactments have generally adopted the provisions relating to appeals in the Indian Income Tax Act, 1922/Income Tax Act, 1961. Sub-section (3) of Section 31 of the Indian Income Tax Act, 1922 provided that "in disposing of an

appeal, the Appellate Assistant Commissioner may, in the case of an order of assessment, (a) confirm, reduce, enhance or annul the assessment, or (b) set aside the assessment and direct the Income Tax Officer to make a fresh assessment after making such further inquiry as the Income Tax Officer thinks fit or the Appellate Assistant Commissioner may direct, and the Income Tax Officer shall thereupon proceed to make such fresh assessment and determine where necessary the amount of tax payable on the basis of such fresh assessment."

Construing the said provision, it was held by Chagla, C.J., (speaking for the Bench comprising himself and Tendolkar, J.) in Narrondas Manordass v. CIP6 that:

> "... in giving the power of enhancing the assessment, the Legislature has strikingly deviated from the ordinary principles that govern the court of appeal. Although the Department cannot appeal against the order of the Income Tax Officer and although the appeal is only by the assessee, even so the Legislature confers upon the Appellate Assistant Commissioner the power to make an order which is obviously to the prejudice of the appellant. Therefore, although the appellant may only complain of particular points in the assessment and he may be satisfied with regard to the rest of the assessment, the Appellate Assistant Commissioner's powers are not confined to consider only these points 6 (1957) 31 ITR 909 (Bom) about which the assessee has a grievance but he may consider those points about which the assessee is satisfied and order the enhancement of the assessment. Now, it is clear that going by the plain words used by the Legislature there are no words of limitation or qualification upon the power of the Appellate Assistant Commissioner in enhancing the assessment or setting aside the assessment and directing a fresh assessment to be made by the Income Tax Officer.... It is clear that the Appellate Assistant Commissioner has been constituted a revising authority against the decisions of the Income Tax Officer; a revising authority not in the narrow sense of revising those matters about which the assessee makes a grievance, but a revising authority in the sense that once the appeal is before him he can revise not only the ultimate computation arrived at by the Income Tax Officer but he can revise every process which led to the ultimate computation or assessment. In other words, what he can revise is not merely the ultimate amount which is liable to tax, but he is entitled to revise the various decisions given by the Income Tax Officer in the course of the assessment and also the various incomes or deductions which came in for consideration of the Income Tax Officer."

The said view was affirmed by this Court in CIT v. MacMillan & Co. 7

10.Clearly, therefore, the power of appeal under the said two enactments is altogether different from the power of the appellate courts under the Code of Civil Procedure. Even if the appeal by the dealer is confined to a particular aspect of assessment, it is open to the appellate authorities to enhance the assessment. They can also annul the order of assessment and order a fresh assessment. As held by Chagla, C.J., the appellate authorities under the said enactments are in the nature of the revising authorities "not in the narrow sense of revising those matters about which the assessee has a

grievance, but a revising authority in the sense that once the appeal is before him, he can revise not only the ultimate computation arrived at by the Income Tax Officer, but he can revise every process which led to the ultimate computation or assessment". In such a situation, it is idle to contend that because of the language of Rule 12(7), the appellate authorities cannot do what the first assessing authority could do.

11.We are unable to agree with the Revenue's contention that because Rule 12(7) speaks of "up to the time of assessment by the first assessing authority" or for that matter the proviso to the said sub-rule it excludes, by necessary implication, the appellate authorities. The decision in MacMillan7 furnishes a complete answer to this contention. We may elaborate. Section 13 of the Indian Income Tax Act, 1922 (corresponding to Section 145 of the present Act) read as follows:

> "13. Income, profits and gains shall be computed, for the purposes of Sections 10 and 12, in accordance with the method of accounting regularly employed by the assessee 7 (1958) 33 ITR 182: AIR 1958 SC 207: 1958 SCR (Jeevan Reddy, J.) Provided that, if no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Income Tax Of ficer, the income, profits and gains cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as the Income Tax Officer may determine."

12.Relying upon the words "in the opinion of the Income Tax Officer" occurring in the proviso to Section 13, it was contended by the assessee that the power or duty of rejecting the method of accounting on the ground that income, profits and gain cannot be properly deduced therefrom is given to the Income Tax Officer alone and not to any other authority in the hierarchy of authorities mentioned in Section 5 of the Act. On the other hand, the contention of the Revenue was that reading Section 13 together with Section 31(3), it should be held that the Appellate Assistant Commissioner has the same jurisdiction as that of the Income Tax Officer in the said matter. Rejecting the contention put forward by the assessee, this Court made the following observations, which deserve to be quoted at length in view of their relevance to the contention urged by the Revenue before us:

> "We are unable to accept this line of argument as correct, and our reasons are these. Firstly, we think that learned counsel is reading more into the expression 'in tile opinion of the Income Tax Officer' occurring in the proviso to Section 13 than what is warranted by the language used. Whether the method of accounting is regularly employed or not is undoubtedly a matter which the Appellate Assistant Commissioner can go into when he has siezin of the appeal. It is not challenged that if the Income Tax Officer decides against the assessee and determines that the income, profits and gains cannot properly be deduced from the assessee's method of accounting, the determination is liable to be set aside on appeal by the assessee. What then is the reason for holding that a subjective determination or the determination of a named authority (whatever expression may be used) is inviolate in one case but not so in the other? We have carefully examined the other sections of the Act to which learned counsel for the respondent has referred; but we are unable to agree with him

that the language used therein supports the very subtle distinction that he has drawn. Let us take, for example, Section 23 which deals with assessment. Under sub-section (3), the Income Tax Officer assesses the total income of the assessee and determines the sum payable on the basis of such assessment; under sub-section (4) the Income Tax Officer makes the assessment to the 'best of his judgment' an expression much stronger than 'in the opinion of the Income Tax Officer'. It is not disputed that in an appeal from an assessment under Section 23, the Appellate Assistant Commissioner can interfere with the determination or judgment of the Income Tax Officer, and in such an appeal the Appellate Assistant Commissioner can make his own assessment and exercise the power which the Income Tax Officer could exercise. Since 1939 an appeal lies from a 'best of judgment' assessment made under sub-section (4) of Section 23, but the right is restricted to 'the amount of income assessed or the amount of tax determined'. Why can he not then interfere with the opinion of the Income Tax Officer under the proviso to Section 13? It is contended that both sub-sections (3) and (4) of Section 23 prescribed objective conditions for the exercise of the power referred to therein. It is true that under both sub-sections the assessment must be a fair and honest estimate and not arbitrary or capricious. Apart from that, however, we do not see what other distinctive, objective conditions there are which put those sub-sections in a different category.

The words 'in the opinion of the Income Tax Officer' are not to be construed in the sense of a mere discretionary power; but in the context of the words used in the proviso to Section 13 they impose a statutory duty on the Income Tax Officer to examine in every case the method of accounting and to see (i) whether or not it Is regularly employed, and (ii) to determine whether the income, profits and gains can properly be deduced therefrom. Section 30 of the Act gives the assessee a right of appeal in respect of certain orders including an order of assessment made under Section 23. Section 31 deals with the hearing of an appeal and powers of the Appellate Assistant Commissioner. Before disposing of the appeal, the Appellate Assistant Commissioner may, if he thinks fit, make a further enquiry himself or cause it to be made by the Income Tax Officer, and in disposing of the appeal he may, in the case of an order of assessment, confirm, reduce, enhance or annul the assessment; he may set it aside and order a fresh assessment. There is nothing in the language of Section 31 of the Act which imposes any restriction on the powers of an Appellate Assistant Commissioner so as to prevent him from exercising the power under the proviso to Section 13. The restriction, if any, must be inferred from the language of the proviso itself. It is contended that the use of the words 'in the opinion of the Income Tax Officer' in the second part of the proviso to Section 13 suggests a complete elimination of the Appellate Assistant Commissioner's jurisdiction to decide for the first time that the method of accounting is such that the income, profits and gains cannot be properly deduced therefrom. It is true that the decision as to the method of accounting is to be arrived at first by the Income Tax Officer after a careful scrutiny of the accounts whether they are simple or complicated, and the power is to be reasonably and judicially exercised, which excludes any subjective or arbitrary

> decision by the Income Tax Officer. It cannot, however, be said that a power so exercised is clothed with finality and wou ld be excluded from review by the Appellate Assistant Commissioner; and in reviewing the order the appellate authority can exercise the same powers which the Income Tax Officer could exercise."

13. The aforesaid observations show that the mere use of the words "the first assessing authority" in sub-rule (7) of Rule 12 cannot and does not mean, in the context and scheme of the enactments concerned herein, that the appellate authorities do not have the power to receive Form-C in appeal. This power can of course be exercised only where sufficient cause is shown by the dealer for not filing them up to the time of assessment before the first assessing authority. If in a given case, a dealer had obtained further time from the first assessing authority and yet failed to produce them before him, it is obvious that the appellate authority would adopt a stiffer standard in judging the sufficient cause shown by the dealer for not producing them earlier. It is necessary to reiterate that receipt of those forms in appeal cannot be a matter of course; it should be allowed only where sufficient cause is established by the dealer for not producing them before the first assessing authority as contemplated by Rule 12(7). The requirement of the said sub-rule cannot be excluded from consideration by the appellate court, while judging the sufficiency of the cause shown. It must be remembered that that is the primary obligation of the dealer and his failure to abide by it must be properly explained. Insofar as the Sales Tax Appellate Tribunal under the Andhra Pradesh Act is concerned, it is governed by Regulation 11(1) referred to hereinabove which again is nothing but a reiteration of the very same power.

14.The reasoning in the decision of the Full Bench of the Madras High Court in Arulmurugan & Co.5 is practically on the same lines as indicated above. We are in agreement with the said view. It is also brought to our notice that the Andhra Pradesh High Court has taken the same view in Rajeswari Stone Polisherv v. State of A. P.8

15.For the above reasons, the appeals (all of them preferred by the States of Tamil Nadu and Andhra Pradesh) are dismissed. There shall be no order as to costs.