

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26<sup>TH</sup> DAY OF APRIL 2016

PRESENT

THE HON'BLE MR.JUSTICE JAYANT PATEL

AND

THE HON'BLE MRS.JUSTICE B.V.NAGARATHNA

**STA NO.14/2015**

**BETWEEN:**

M/S. REPROMEN OFFSET PRINTERS PVT LTD  
REPRESENTED BY ITS  
MANAGING DIRECTOR  
SRI.V.KRISHNA MOORTHY  
AGED ABOUT 58 YEARS  
PLOT NO.125A, BOMMASANDRA  
INDUSTRIAL AREA, ANEKAL TALUK  
BENGALURU-560 099

...APPELLANT

(BY SRI.M.N.SHANKARE GOWDA, ADVOCATE)

**AND:**

THE STATE OF KARNATAKA  
THROUGH THE COMMISSIONER OF  
COMMERCIAL TAXES  
VANIJYA THERIGE KARYALAYA  
1ST MAIN ROAD

GANDHINAGAR  
BANGALORE-560009

...RESPONDENT

(BY SRI.K.M.SHIVAYOGISWAMY, AGA)

THIS STA IS FILED UNDER SEC.66(1) OF THE KVAT ACT, 2003 AGAINST THE ORDER DATED: 24.02.2015 PASSED IN NO.AR.CLR.CR.13/13-14 ON THE FILE OF THE AUTHORITY CLARIFICATION AND ADVANCE RULING AUTHORITY GANDHINAGAR, BENGALURU-9, CLARIFYING THAT THE BANNERS/POSTERS PRINTED ON PLASTIC POLYTHELENE PLAIN FILM SHEET ARE TAXABLE @ 14.5% UNDER SEC.4(1)(b)(iii) OF THE KVAT ACT, 2003.

THIS APPEAL COMING ON FOR ADMISSION THIS DAY, **JAYANT PATEL J.**, DELIVERED THE FOLLOWING:

JUDGMENT

Notice.

Mr.K.M.Shivayogiswamy, learned Addl.

Government Advocate appearing for the respondent waives service of notice.

2. With the consent of learned Advocates appearing on both sides, the appeal is further heard.

3. The present appeal is directed against order dated 24.02.2015 passed by the Advance Ruling Authority, in exercise of power under Section 60(4) of the Karnataka Value Added Tax, 2003 (hereinafter referred to as 'the KVAT Act' for brevity), whereby the material which is being purchased and sold by the appellant is excluded from entry No.71 and the rates are specified.

4. We have heard Mr.M.N.Shankare Gowda, learned Counsel appearing for the appellant and Mr.K.M.Shivayogiswamy, learned Addl. Government Advocate, appearing for the respondent.

5. It appears that the appellant is dealing in the printing of hoardings and banners. On 31.08.2012 the

appellant raised an invoice by showing description of the commodity as Poster and levied VAT at 5.5%. But the appellant had a doubt and therefore on 03.12.2012, it applied to the Commissioner of Commercial Taxes for clarification under Section 59 of the KVAT Act. On 29.12.2012 the Commissioner of Commercial Taxes directed the appellant to appear with the particulars of the raw materials used and the process involved. On 09.01.2013, further details were called for, but ultimately on 02.03.2013, the appellant was communicated that the issue needs to be examined in detail and therefore, the appellant was directed to approach before the Advance Ruling Authority for clarification. Thereafter, the appellant approached before the Advance Ruling Authority and on 24.02.2015, the Advance Ruling Authority passed the

impugned order. Under the circumstances, the present appeal before this Court.

6. The contention of the learned Counsel for the appellant is that the material of poster, banners, pamphlets, leaflets etc., including the material in which the appellant is dealing are included in Entry No.71 and therefore the chargeability of the rate will be 5.5%, but instead, the Advance Ruling Authority has not included the said items under Entry No.71 of Third Schedule of the KVAT Act and has prescribed a separate rate which is illegal and therefore, the present appeal.

7. We may record that Entry No.71 of Third Schedule of Karnataka Value Added Tax, 2003 reads as under:

“71. Printed materials other than books meant for reading; stationary articles namely.-

Account books, paper envelopes, diaries, calendars, race cards, catalogues, greeting cards, invitation cards, humour post cards, picture post cards, cards for special occasions, photo and stamp albums, computer stationery.”

The aforesaid shows that the printed material other than books are included but stationery articles of various categories viz., account books, paper envelopes, diaries, calendars, race cards, catalogues, greeting cards, invitation cards, humour post cards, picture post cards, cards for special occasions, photo and stamp albums and computer stationeries are provided. If one has to consider the entry, the entry is always to be considered after reading it as a whole and it cannot be by segregating a few words of the entry. A reading of the entry shows that the printed material has to be on the stationery paper.

8. Further for interpretation of the entry the words 'printed material' should take colour from the other words of the very same entry and similar items or more or less the same items can be said to have been included. The fact that books are excluded but account books, paper envelopes, diaries, calendars, race cards etc. are included, would mean that if the size is the basis to be considered, it would mean that those specified items would not be more than the size of books or account book size. Further, if use of the materials is to be a factor to be considered, then such printed material or stationery articles as the case may be, are meant for individual use in contradistinction to posters or banners used to make known to the public at large certain information. The materials which have been considered precisely by the Advance Ruling Authority are posters, vinyl hoardings, printed fabric banners, flex

banners, bill boards etc. In all such items, the essential use is for publicity as against private use by any person. Further printing on fabric or other material in contradistinction to printing done on paper or stationery items are distinct and totally different.

9. If the contention of the appellant is to be accepted that all printing materials are included in the entry irrespective of the material on which the printing is made, the resultant effect would be that the other entries would be redundant. For example, printed garments, printed sarees, printed wall papers and various other printed items though may be falling in the respective entries, would be rendered otiose. In interpretation of an entry in a taxing statute even if the meaning understood in commercial parlance is considered, then also, the items which are included in Entry No.71 cannot encompass the items of printed



banners and hoardings. In all respects, the items which are included in Entry No.71 are altogether different from that of the items of the appellant for which the rates are prescribed by the Advance Ruling Authority by way of a clarification.

10. Learned Counsel for the appellant did contend that the Advance Ruling Authority has not examined the matter in detail nor has examined the item in depth by recording reasons and therefore this Court may interfere.

11. In our view, when we are not satisfied even after examining in detail that the Entry No.71 can be applied to the products or the items which are being dealt with by the appellant, no useful purpose would be served by examining the matter on the ground that

there is no detailed discussion or examination by the Advance Ruling Authority.

12. Learned Counsel for the appellant did rely upon a decision of this Court in case of **State of Karnataka Vs. Kasturi & Sons Ltd.** reported at (2000) Vol. 120 Sales Tax Cases page 564 and also the decision of the Apex Court in the case of **Vikrant Tyres Limited Vs. State of Karnataka** reported at 2001 (Vol. 121) Sales Tax Cases 510 (P.517). However, considering the facts in the case before the Apex Court as well as before this Court, in the aforesaid decisions and the facts of the present case, we do not find that those decisions can be applied in the present case, as sought to be canvassed. Hence, the said decisions are of no assistance to the learned Counsel for the appellant.

13. In view of the above, we do not find any case for interference. Hence, the appeal is meritless and is dismissed.

**Sd/-  
JUDGE**

**Sd/-  
JUDGE**

JT/-