

22

पत्र संख्या- न्याय-एस0एल0पी0 / 2023-24/

651

/राज्य कर,

प्रेषक,

आयुक्त, राज्य कर,
उत्तर प्रदेश।

सेवा में,

अपर आयुक्त, राज्य कर, गौतमबुद्धनगर, जोन-नोएडा,
समस्त अपर आयुक्त ग्रेड-1, राज्य कर, उत्तर प्रदेश।

(वाद अनुभाग)

लखनऊ:: दिनांक:: 09 अगस्त, 2023

महोदय,

कृपया असिस्टेंट रजिस्ट्रार, सुप्रीम कोर्ट ऑफ इण्डिया, नई दिल्ली के पत्र संख्या 5654/2014/SEC-III-A दिनांक 17.07.2023 (प्रति संलग्न) का सन्दर्भ ग्रहण करने का कष्ट करें, जिसके द्वारा CIVIL APPEAL NO.10704-10709/2018 M/S GUDEX GLASS INDUSTRIES PVT. LTD., MEERUT VS. COMMISSIONER, TRADE TAX, U.P. वाद में मा0 सर्वोच्च न्यायालय द्वारा दिनांक 11.07.2023 को पारित निर्णय की प्रति इस कार्यालय को प्राप्त करायी गयी है, जो कि निम्नवत है-

The short question involved is whether the toughened glass manufactured and sold by the appellant are to be classified as "glass and glassware" or as an unclassified item subjected to lower tax.

The trade tax assessment officer ruled against the appellant holding that the toughened glass manufactured by the assessee was covered by the expression "All goods and wares made of glass". The tariff entry under the U.P. Sales Tax Act, 1998 i.e. Tariff Item No. 39, reads as follows:

"All goods and wares made of glass but not including plain glass-panes, optical lenses, hurricane lantern chimneys, bottles and phials, glass-beads, clinical syringes, thermometers, and scientific apparatus and instruments made of glass...."

The appellate authority and the Tribunal, upset those findings. The High Court, however, set aside the Tribunal's finding relying upon the judgment of this Court in "Trutuf Safety Glass Industries vs. Commissioner of Sales Tax, U.P." reported in (2007) 7 SCC 242.

Learned counsel sought to distinguish the ruling in "Trutuf" and submitted that the width of the description in Item No. 39 of the Tariff Notification i.e. wares made of glass do not encompass toughened glass manufactured by the assessee in this case. The revenue argued to the contrary. 12.....

This Court is of the opinion that the view expressed by the High Court is unexceptionable. The nature and description of articles in Item No. 39 of the Tariff Notification, emphasizes the kind of goods which are covered and at the same indicate the class of goods which are not covered. In the opinion of this court, the article manufactured by the appellant-assessee clearly falls within the description of Item No. 39. The judgment of the High Court, therefore, does not call for interference. The appeals are dismissed.

It is open to the respondent to encash the bank guarantee and proceed appropriately.

श्री अ. न. न.
A3
11/8/23

प्रकरण में उत्तर प्रदेश बिक्री कर अधिनियम 1998 के अन्तर्गत विवादित वस्तु Toughened Glass की कर दर पर मा0 उच्चतम न्यायालय द्वारा निर्णय दिया गया है तथा व्यापारी की अपील अस्वीकार करते हुए इसे Traiff Item No. 39 के अन्तर्गत माना गया है। अतः उक्त निर्णय की प्रति आपको इस आशय से प्रेषित की जा रही है कि उक्त निर्णय से कर निर्धारण अधिकारियों को सूचित करते हुए उक्त के अनुरूप नियमानुसार समस्त वांछित आवश्यक कार्यवाही पूर्ण कराना सुनिश्चित करे। कृत कार्यवाही से इस कार्यालय को भी अवगत कराया जाए।


यह पत्र आयुक्त, राज्य कर के अनुमोदनोपरान्त जारी किया जा रहा है।
संलग्नक—उपरोक्तानुसार।

भवदीय

(राजेश कुमार पाण्डेय)
अपर आयुक्त (विधि) राज्य कर,
उत्तर प्रदेश, लखनऊ।

पु०प०सं० व दिनांक उक्त प्रतिलिपि -

1. अपर आयुक्त ग्रेड-1 (उ०न्या०कार्य), राज्य कर, प्रयागराज को सूचनार्थ प्रेषित।
2. अपर आयुक्त ग्रेड-2 (उ०न्या०कार्य), राज्य कर, लखनऊ को सूचनार्थ प्रेषित।
3. संयुक्त आयुक्त (आई०टी०), राज्य कर, मुख्यालय को इस अनुरोध के साथ कि उक्त को विभागीय वेबसाइट पर समस्त कर निर्धारण अधिकारियों के सूचनार्थ प्रकाशित करने का कष्ट करें।


अपर आयुक्त (विधि) राज्य कर,
उत्तर प्रदेश, लखनऊ।

RD 2950287581

All Communications Should be
Addressed to Registrar by
Designation and not by Name.
Pin Code - 110001

Delivery Mode: Email

D. No. 5654/2014 /SEC-III-A
SUPREME COURT OF INDIA
NEW DELHI
17th July, 2023

From:

The Assistant Registrar,
Supreme Court of India, New Delhi.

To,

1 THE REGISTRAR,
HIGH COURT OF JUDICATURE AT
ALLAHABAD,
DISTRICT- ALLAHABAD, UTTAR
PRADESH

PID: 133679/2023 FOR P[1] IN
C.A. NO.10704-10709/2018
(SEC III-A)

2 THE COMMISSIONER,
TRADE TAX,
DISTRICT- LUCKNOW, UTTAR
PRADESH

PID: 133680/2023 FOR R[1] IN
C.A. NO.10704-10709/2018
(SEC III-A)

CIVIL APPEAL NOS. 10704-10709 OF 2018

(Petition under Article 136 of the Constitution of India from the judgement and Order dated 07th October, 2013 of the HIGH COURT OF JUDICATURE AT ALLAHABAD, UTTAR PRADESH in Sales/Trade Tax Revision Nos. 1560, 1510, 1511, 1518, 1519 and 1520 of 2007)

M/S.GUDEX GLASS INDUSTRIES PVT.LTD.

... Appellant

VERSUS

COMMISSIONER TRADE TAX, U.P.

... Respondent

Sir,

In pursuance of Order XII Rule 6, S.C.R. 2013, I am directed to transmit herewith Certified Copy of Signed Order dated **11th July, 2023** in the appeals above mentioned, for your information, necessary action and compliance. The certified copy of the decree made in the said appeals will be sent later on (if any).

Yours faithfully,

[Signature]
for ASSISTANT REGISTRAR

Add. Com. (Law)

कृते आयुक्त

01.08.2023

2354

46F-V

श्री. मोदीयानी
नियुक्त आयुक्त (कृते)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 10704-10709 OF 2018

M/S.GUDEX GLASS INDUSTRIES PVT.LTD.

.....Appellant(s)

Vs.

171420

COMMISSIONER TRADE TAX, U.P.

.....Respondent(s)

Certified to be true copy
Assistant Registrar (Judl.)

O R D E R

18-07-2023

Supreme Court of India

The short question involved is whether the toughened glass manufactured and sold by the appellant are to be classified as "glass and glassware" or as an unclassified item subjected to lower tax.

The trade tax assessment officer ruled against the appellant holding that the toughened glass manufactured by the assessee was covered by the expression "All goods and wares made of glass". The tariff entry under the U.P. Sales Tax Act, 1998 i.e. Tariff Item No. 39, reads as follows:

"All goods and wares made of glass but not including plain glass-panes, optical lenses, hurricane lantern chimneys, bottles and phials, glass-beads, clinical syringes, thermometers, and scientific apparatus and instruments made of glass..."

The appellate authority and the Tribunal, upset those findings. The High Court, however, set aside the Tribunal's finding relying upon the judgment of this Court in "Trutuf Safety Glass Industries vs. Commissioner of Sales Tax, U.P." reported in

Learned counsel sought to distinguish the ruling "Trutuf" and submitted that the width of the description in Item No. 39 of the Tariff Notification i.e. wares made of glass do not encompass toughened glass manufactured by the assessee in this case. The revenue argued to the contrary.

In "Trutuf" this Court had observed pertinently in relation to the same legislation as follows:

- "12. The expression used is "in all forms". The Entry contains an expansive description i.e. "glass" and "glasswares" in all forms". There is no dispute that the articles manufactured by the assessee are articles made of glass. The word 'form' connotes a visible aspect such as shape or mode in which a thing exists or manifests itself, species, kind or variety. The use of the word 'in all forms' is different from the expression 'all kinds'. The conceptual difference between the words "all kinds" and 'in all forms' is that the former multiplies items of the same kind while the latter multiplies the same commodity in different forms. The use of the word 'in all forms' widens the scope of the Entry.
13. It is settled position in law that while interpreting the entry for the purpose of taxation recourse should not be made to the scientific meaning of the terms or expressions used but to their popular meaning, that is to say, the meaning attached to them by those dealing in them. This is what is known as "common parlance test". The dictionary meaning of 'glassware' means an article made of glass. The High Court proceeded on the basis that while interpreting the words 'glass and glass wares' in the entry, it should be interpreted as it is understood by the persons dealing in them. It held that the articles manufactured by the assessee cannot be described as glass or glass wares. The view of the High Court would have been correct had the expression "in all forms" not succeeded the expression "glass and glass wares". "

This Court is of the opinion that the view expressed by the High Court is unexceptionable. The nature and description of articles in Item No. 39 of the Tariff Notification, emphasizes the kind of goods which are covered and at the same indicate the class of goods which are not covered. In the opinion of this Court, the article manufactured by the appellant-assessee clearly falls within the description of Item No. 39. The judgment of the High Court, therefore, does not call for interference. The appeal ^{asc} is _{s au} dismissed.

It is open to the respondent to encash the bank guarantee and proceed appropriately.

.....J.
(S. RAVINDRA BHAT)

.....J.
(ARAVIND KUMAR)

New Delhi;
July 11, 2023.

