

(1982) 12 MAD CK 0019

In the Madras High Court

Case No : Tax Case (Appeal) No's. 1396 and 1674 of 1977

Al. Murugan Chettiar and Another

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 01-12-1982

Acts Referred:

Citation : (1983) 53 STC 227

Hon'ble Judges : Ratnam, J;N.V. Balasubramanian, J

Bench : Division Bench

Advocate : N. Inbarajan, for the Appellant; K.S. Bakthavatsalam, Additional Government Pleader, for the Respondent

Judgement

Balasubrahmanyam, J.—The appellants in these two appeals are different. Each of them is an assessee under the Tamil Nadu General Sales

Tax Act, 1959. Each of them owns a ginning factory in which raw cotton or kapas is converted into lint or ginned cotton. As if by a coincidence,

each of them does not keep any accounts at all of his purchases. But the commercial taxes department was able to obtain figures of the sales of

ginned cotton or lint. Cotton, in any form, is not assessable at the point of sale, which may be one reason why these people have not kept their

accounts of purchases. For want of figures of purchases, the assessing authority was hard put to it to estimate the purchase value of raw cotton by

applying a formula and arriving at their purchase value from the data furnished by the sales turnover of ginned cotton. In arriving at the purchase

turnover from the data available in regard to the sales turnover, the purchase turnover was arrived at in the following fashion, to take the

assessment order in the first case :

2. In the other case, the estimated purchase value was Rs. 43,758.92 to which was added the loss of kapas in the process of ginning amounting to Rs. 45,549.26.

3. The assessee's contention in both the cases was that in the matter of estimate of the purchase value, the value of the quantity in terms of weight which had disappeared owing to drriage or other reasons should not be taken note of. This contention was accepted at the appellate stage by the

Appellate Assistant Commissioner. He deleted from the purchase turnover Rs. 2,92,092 in the one case and Rs. 45,549.26 in the other case. The

Board of Revenue, however, interfered with the orders of the Appellate Assistant Commissioner holding that there is no scope for giving a

deduction for what was called the invisible loss in the process of manufacture of raw cotton into the ginned cotton. The Board pointed out that the

tax leviable under item 2 of the Second Schedule to the Act is based on the purchase value at the last point of purchase in this State and does not

take note of what happens to the goods or their purchase value thereafter.

4. The contention of the appellants before us is that invisible loss cannot be regarded as part of the purchase turnover. The argument so put seems

very attractive and even innocent looking. However, what we are at in an assessment of this nature is to levy a tax on the purchase consideration of

raw cotton at its last stage, that is to say, before it is converted into ginned cotton. If an assessee maintains correct accounts of purchases, then,

even though after purchase the raw cotton gets reduced in weight and therefore what is termed as an invisible loss occurs to the assessee, that

subsequent development would have nothing to do with the determination of the purchase turnover at the time of purchase. All the arithmetic of the

assessing authority in this case of taking the purchase value and adding to it the value of the quantity lost in drriage or in the manufacturing process is

only an estimated substitute for the actual purchase consideration. Even as there is no provision in the Act making allowances for drriage or wastage

in the manufacturing process of a commodity which is taxable at purchase point, even so, there cannot be an estimated allowance for drriage or

wastage in cases where purchase value has perforce to be estimated in the absence of correct data or figures in the assessee's accounts.

5. In these circumstances, we must uphold the decision of the Board as based on

a correct understanding of the scheme of purchase tax in regard to cotton and also the formula used in estimating the purchase value in cases where there are no correct data or materials provided by the assesseees for arriving at the purchase value.

6. The appeals are dismissed with costs (one set). Counsel's fee Rs. 250.