(1982) 11 MAD CK 0038

In the Madras High Court

Case No : Tax Case No. 1394 of 1977 (Revision No. 325 of 1977)

Ashok Traders APPELLANT

Vs

State of Tamil Nadu RESPONDENT

Date of Decision : 18-11-1982

Acts Referred:

Citation : (1984) 57 STC 133

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

Bench : Division Bench

Advocate : Trilokchand Chopda, for the Appellant; K.S. Bakthavatsalam, Additional Government Pleader, for the Respondent

Judgement

Balasubrahmanyan, J.—In this case C form declarations were filed by the assessee not before the first assessment was completed, but at the

stage of appeal before Appellate Assistant Commissioner. The Appellate Assistant Commissioner did not entertain the C forms. On further appeal,

the Tribunal held that the assessee had not established that it was prevented by sufficient cause from filing the C form declaration within the time

limited, namely, before completion of the assessment. In this view, they refused to entertain the C form declarations sought to be produced at the

appellate stage. They further took the view that the appellate authority has really no power to entertain C form declarations when they had not

been filed with the assessing authority before completion of the assessment.

2. The assessee has come before this Court in revision against the order of the Appellate Tribunal.

3. In a recent decision of a Full Bench of this Court in T.C. No. 78 of 1980, State of Tamil Nadu v. Arulmurugan and Company (disposed of on

2nd November, 1982) [1982] 51 STC 381 , it has been held that C form declarations can be entertained out of time by the appellate authorities

on sufficient cause and the power to grant further time is not limited to the assessing authority alone. It was also further held that the extension of

time by the appellate authority as well as the assessing authority was not to depend upon the enquiry as to whether the assessee was prevented by

sufficient cause from filing the C form declarations before the assessment was over, but whether, on a consideration of the entire circumstances, the

appellate authority could consider the extension of time as called for on the basis of sufficient cause.

4. Quite naturally, the law as enunciated by the Full Bench was not before the Tribunal and this explains why the Tribunal had not taken a correct

view not only of the extent of the appellate jurisdiction but of the meaning of the relevant provisions of the General Sales Tax Act. Now that the

law has been properly explained by the Full Bench, we have to follow the Full Bench in the decision of this question raised by the assessee.

5. However, sitting in revision we do not think it proper to entertain the C form declarations or go into the question of sufficient cause. Since the

assessee had sought to file these declaration forms before the first appellate authority, namely, the Appellate Assistant Commissioner, we think it

proper that he should be asked to consider the matter once again in the light of the decision of the Full Bench. We, accordingly, set aside the order

of the Tribunal, as well as that of the Appellate Assistant Commissioner, and direct the Appellate Assistant Commissioner to go into the question

entertaining the C form declarations in exercise of his discretion. The revision is technically allowed, but with the direction which we have set out

above. There will be no order as to costs.