(1990) 11 MAD CK 0022

In the Madras High Court

Case No : Tax Case No. 403 of 1981

Babu Litho Press APPELLANT

Vs

State of Tamil Nadu RESPONDENT

Date of Decision : 05-11-1990

Acts Referred:
Tamil Nadu General Sales Tax Act, 1959 — Section 2, 7A

Citation : (2001) 124 STC 663

Hon'ble Judges : Venkataswami, J;Abdul Hadi, J

Bench : Division Bench

Advocate : C. Venkataraman, for the Appellant; R. Karuppan, Additional Government Pleader (Taxes), for the Respondent

Final Decision : Allowed

Judgement

Venkataswami, J.—In this tax case the turnovers in question are Rs. 1,71,356.30 representing sales of printed materials such as cinema

tickets, wall posters, etc., and another turnover amounting Rs. 1,413.30 subjected to tax u/s 7-A of the Tamil Nadu General Sales Tax Act, 1959

representing purchase of wax, cotton waste, etc., used for cleaning printing machinery. The learned counsel for the petitioner placed reliance on the

decision reported in State of Tamil Nadu Vs. Anandam Viswanathan, and argued that levy of tax on the sales of cinema tickets, wall posters, etc.,

cannot be sustained as it amounts to works contract and not sales. The Supreme Court in the said judgment has held as follows : (at page 14 of

STC)

The primary difference between a contract for work or service and a contract for sale is that in the former there is in the person performing or

rendering service no property in the thing produced as a whole, notwithstanding that a part or even the whole of the material used by him may have

been his property. Where the finished product supplied to a particular customer is not a commercial commodity in the sense that it cannot be sold

in the market to any other person, the transaction is only a works contract. See the observations in Court Press Job Branch, The Court Press Job

Branch, Salem Vs. The State of Tamil Nadu, and Commissioner of Sales Tax Vs. Ratna Fine Arts Printing Press,

2. In view of the above recent judgment of the Supreme Court, we have no doubt that the sales of printed materials like cinema tickets, wall

posters, etc., cannot be subjected to tax. Likewise, the view of the Tribunal that the purchase of wax, cotton waste for cleaning the printing

machinery will come u/s 7-A of the Act cannot be sustained. As a matter of fact, the Appellate Assistant Commissioner granted relief on the said

turnover of Rs. 1,413.30. But the Tribunal on the enhancement petition filed by the Revenue included the same in the taxable turnover. We are of

the view that the Assistant Commissioner is right and the Tribunal is not right in including this turnover in the taxable turnover. In the result, we

allow the tax case. However, there will be no order as to costs.

