(1981) 11 MAD CK 0039

In the Madras High Court

Case No : Writ Petition No. 226 of 1981

Bhoruka Steels Ltd. APPELLANT

Vs

The State of Tamil Nadu and Another RESPONDENT

Date of Decision : 12-11-1981

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (1983) 52 STC 70

Hon'ble Judges : Nainar Sundaram, J

Bench : Single Bench

Advocate : D. Raju, for the Appellant; K.S. Bakthavatsalam, Additional Government Pleader, for the Respondent

Judgement

Nainar Sundaram, J.—The prayer in the writ petition is to issue a writ of mandamus forbearing the respondents from detaining the goods or

levying or demanding the payment of advance sales tax for the release of goods of the petitioners transported from the head office of the petitioners

at Bangalore to their branch office at Tiruchi. According to the petitioner, its stocks are getting transferred in lorries from its Bangalore factory to its

godown or branch depot at Tiruchi and such stock transfers cannot be classified as sales so as to attract the assessment provisions of the Tamil

Nadu General Sales Tax Act, 1959, hereinafter referred to as ""the Act"". The petitioner further states that the sales tax due on the respective sales

will be paid by it to the assessing authority at Coimbatore, on whose file the petitioner is an assessee. The grievance of the petitioner is that the

stocks transferred in the above manner are getting detained by the second respondent at different check posts and goods detention notices are

being issued on the ground that the goods have not suffered sales tax. This grievance of the petitioner cannot be tested in the absence of a specific

prayer with reference to any particular goods detention notice. The prayer as it stands projected in the present writ petition is omnibus and asks for

a general declaratory relief and such a prayer cannot be countenanced. It is well-settled that a mere declaratory relief is not appropriate under

article 226 of the Constitution of India. In the instant case, each transaction, which the petitioner claims as only stock transfer, has got to be

scrutinised to find out as to whether the action of the respondents in respect of such transaction is tenable or not. The petitioner has not asked for

relief in respect of any individual or specific transaction. Article 226 of the Constitution of India is not meant to be resorted to for obtaining general

declaratory orders or reliefs, declaring act and orders invalid, though no specific act or order is the subject-matter of review. The process under

article 226 cannot and should not be utilised to obtain an omnibus declaration to cover future contingencies also. Practically what the petitioner

seeks is a declaration from this Court that the respondent dealing with the transactions of the petitioner, referred to above, should be directed to

act within the ambit and circumscription of the concerned statute. Such a relief cannot be granted. As pointed out above, the petitioner has not

come forward praying for redress and relief with reference to any particular transaction.

2. As such, I do not feel obliged to countenance such a prayer and issue a writ of mandamus as prayed for. However, it is needless to point out

that if, in fact, the goods transported in lorries by the petitioner from its Bangalore factory to its other branch offices or godowns are only stock

transfers and not sales, it will not be competent for the second respondent or any other authority to insist upon the payment of the taxes under the

Act, in the course of such transfers.

3. With the above observations, this writ petition is dismissed. But there will be no order as to costs.

