

(1991) 07 MAD CK 0040

In the Madras High Court

Case No : S.L.P. (Civil) No"s. 16108 - 16112 of 1991, T.C. (R) No"s. 435 to 439 of 1991 (Revision No"s. 234 to 238 of 1991)

Cholan Roadways Corporation

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 08-07-1991

Acts Referred:

Citation : (1991) 07 MAD CK 0040

Hon'ble Judges : A.S. Anand, C.J.;Kanakaraj, J

Bench : Division Bench

Advocate : N. Inbarajan, for the Appellant;

Judgement

Dr. A.S. Anand, C.J.—Identical questions of law and fact are involved in all these five tax revision cases which are directed against the

common order of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench) dated August 14, 1990.

2. The petitioners are transport corporation. They buy motor vehicle chassis within Tamil Nadu and construct bodies thereon. After the vehicles

are used for a few years and when in the opinion of the corporation they do not remain roadworthy, they are condemned and disposed of as unfit

for further use. For the assessment years 1981-82, 1982-83, 1983-84, 1984-85 and 1985-86 the assessing officer had revised the assessment on

the basis of the inspection report of the Enforcement Wing officers who had inspected the place of business of the corporation on February 18,

1987. Aggrieved by the revised assessment, the corporation preferred appeals before the Appellate Assistant Commissioner. The plea raised

before the Appellate Assistant Commissioner was that the buses had been broken and sold as scrap. That plea was not accepted. It was found

that the buses had been sold as a single unit and there is no mention of the weight in tonnage of the alleged scrap sold. The further plea of the assessee was that the assessment should have been made in so far as the buses are concerned at 15 per cent. and the other scrap only at 5 per cent. The appellate authority on the basis of this plea remanded the matter to the assessing authority after holding that the plea that the buses had been sold as scrap was not acceptable. The Tribunal was approached by the assessee with second appeals. And the Tribunal found that the plea of the assessee that the vehicles had been sold as scrap was not acceptable. It was found that there was contradiction in the stand taken by the assessee in their letters to the registering authorities and the Regional Transport Officer, and consequently the assessment was upheld. The assessee is in revision before us.

3. Learned counsel for the petitioners submitted that the assessee had approached the registering authorities for cancellation of the registration certificates and that this by itself will show that the buses had been sold without registration certificates only as scrap. It appears that the similar plea had been raised before the Tribunal also, and the Tribunal noticed that the assessee had not produced the R.C. books relating to the vehicles sold at the time of assessment and that even the R.C. books were not produced subsequently when asked for by the assessing authority, and neither before the inspecting authorities nor even subsequently when asked for on September 16, 1987. That apart, we find that the vehicles appear to have been sold in roadworthy condition and the assessee approached the registering authority to cancel the R.C. only in the year 1988. No explanation, much less satisfactory explanation, is available on the record as to why for the vehicles sold in 1981-82 onwards the R.Cs. were not surrendered, before the registering authority by the assessee. Whereas the stand taken before the Tribunal was that the records relating to the vehicles had not been maintained, it is surprising that the registration certificates of the alleged scrap sold by the assessee continued to remain as a prize possession with the assessee so that he could approach the registering authorities to cancel the same in 1988. The delay in approaching the registering authority falsifies the stand of the assessee that the buses had been sold without the R.Cs. Had the R.C. books been available with the

assessee, the same would have been produced before the registering authority immediately after the vehicles were sold as scrap. That was not

done and no reason had been furnished either before the authorities below or even before us as to how the R.Cs. were not surrendered till 1988.

The finding of fact recorded by the authorities that no evidence was led by the assessee to show that what had been sold by the assessee was only

scrap does not, therefore, call for any interference.

4. Faced with this situation, learned counsel for the petitioner argued that since the body of the buses sold by the assessee had already suffered tax

at 15 per cent. at the time of first sale in the State, levy of tax at 15 per cent. on the sale of the body of the buses was not permissible. Factually

this plea is not available to the assessee. As already noticed, the assessee after purchasing the chassis had been building the bodies itself. The

bodies have not, therefore, suffered any sales tax earlier. The Tribunal noticed that the corporation itself builds the bodies for the buses and they

have not suffered any tax. We, therefore, do not find any merit in the submission of the learned counsel for the petitioners in that behalf.

5. After considering the matter in its totality, we find that the detailed order given by the Tribunal is based on material available on the record and is

supported by cogent reasons. No case is made out for interference and consequently, the revisions fail and are dismissed.

6. Petition dismissed.