
(1998) 08 MAD CK 0027

In the Madras High Court

Case No : Tax Case Petition No. 255 of 1998

Commissioner of Income Tax

APPELLANT

Vs

Madurai Soft Drinks (P.) Ltd.

RESPONDENT

Date of Decision : 20-08-1998

Acts Referred:

Income Tax Act, 1961 — Section 256(2)

Citation : (2000) 241 ITR 229

Hon'ble Judges : R. Jayasimha Babu, J;A. Subbulakshmy, J

Bench : Division Bench

Advocate : C.V. Rajan, for the Appellant; None, for the Respondent

Judgement

R. Jayasimha Babu, J.—The assessee is a manufacturer of soft drinks. The bottles are used by the assessee as containers for the soft drinks

sold by it. The assessee received deposits from its customers for the bottles. Such deposits being returnable after the bottles were returned. The

intention of the assessee was to reuse the bottles, as that would keep down the cost of the marketing, and by ensuring that the price for the soft

drink is at a reasonable level, the market for the soft drink could be developed further—The Revenue sought to treat the deposit received by the

assessee as its income for the assessment year 1983-84. The Tribunal has upheld the plea of the assessee that such deposit did not constitute

income of the assessee. It is the contention of the Revenue that the decision of the Supreme Court in the case of Punjab Distilling Industries Ltd.

Vs. The Commissioner of Income Tax, Simla, , is applicable to the facts of this case. The facts considered in that case were in the context of the

buy-back scheme, which had been framed by the Government, under which scheme, it was mandatory for the distillers to buy back the bottles in

which the intoxicating liquor had been sold. As the very nomenclature indicates the scheme involved an initial sale and subsequent buy-back.

2. That decision was explained by the Supreme Court in the case of United Breweries Ltd. Vs. State of Andhra Pradesh, . The court, after

referring to the special facts of the case considered in Punjab Distilling Industries Ltd. Vs. The Commissioner of Income Tax, Simla, , and

distinguishing the same, held that the matter is always one of the intention of the parties that if the parties did not intend that the property in the

bottles should pass to the buyer of the contents, the fact that the contents were delivered in the bottle would not have the effect of the bottle itself

having been the subject-matter of the "sale. The court pointed out that the object of collecting the deposits was to ensure the return of the bottle,

and not merely to reserve an option of buying-back goods which had already been sold. It was in the interest of the manufacturer to receive back

the bottles, as those bottles were capable of being recycled and reused, and when so used, it would help the manufacturer to reduce or keep under

control his cost of production, and by doing so, develop the market for the product further. The provisions of Sections 20 to 23 of the Sale of

Goods Act would be applicable only when there was no contrary intention evident in the transaction between the parties.

3. The Tribunal has held that the intention of the assessee in receiving the deposit was not to treat the delivery of the bottles as part of the

transaction of sale, and the deposit was not intended to be regarded as the proceeds of the sale. The deposit was meant to be a deposit only and

not consideration for the sale, and that deposit was one which was required to be returned as and when the bottles were returned. It was not the

intention of the assessee to use the amount of the deposit to buy back the bottles which had not been sold in the first place.

4. We do not see any error in the view of the Tribunal. The tax case petition is, therefore, dismissed.