(1997) 08 MAD CK 0088

In the Madras High Court

Case No : T.C. No. 639 of 1986

Coronation Arts Crafts APPELLANT

Vs

State of Tamil Nadu RESPONDENT

Date of Decision : 04-08-1997

Acts Referred:
Central Sales Tax Act, 1956 — Section 10

Citation : (1997) 08 MAD CK 0088

Hon'ble Judges : R. Jayasimha Babu, J;B. Akbar Basha Khadiri, J

Bench : Division Bench

Advocate : Mrs. Aparna Nandakumar, for M/s. R. Venkataraman and Chitra Venkataraman, for the Appellant; T. Mathi, Government Advocate (Taxes), for the Respondent

Judgement

Jayasimha Babu, J.—The grievance of the petitioner is regarding the imposition of penalty for use of "C" forms in respect of materials not specified in the registration certificate. The petitioner-firm are doing business in the manufacture of labels, pictures, calendars, wedding designs, cartoons, etc., at Sivakasi. It had applied for registration certificate in the year 1977 in respect of specific items. The petitioner had used the word "etc." after those items according to the petitioner, with the intention of covering the material required for his business but which the petitioner thought was not essential to be spelt out in the list. In the certificate given, the word "etc." was not included. However the petitioner did use "C" form in respect of materials other than those mentioned in the certificate, linseed oil, iron hoops, PVC sheets, spirals and wire nails, all of which were used in his business of manufacture of labels and calendars. The authorities have not disputed that claim of the petitioner.

2. According to the petitioner, he was obtaining these other goods by using "C" forms and authorities had accepted petitioners right to use "C" forms in that manner, and for the first time in the assessment year 1981-82, the penalty was imposed on the ground that these materials had not been mentioned in the

certificate of registration. The Commercial Tax Officer after considering the assessee''s objections accepted the plea of the assessee that the goods had been purchased by them for use in the manufacture of other goods only, that he had used the "C" forms under the bona fide belief that the registration certificate already issued would cover these goods also. However, the CTO proceeded to impose a penalty of Rs. 5,000 which was reduced to Rs. 2,500. The Appellate Tribunal has declined to interfere further in the matter.

3. The learned counsel for the assessee relied on the judgment delivered by a Division Bench of this Court in the case of State of Tamil Nadu v. Gemini Studios [1975] 36 STC 357 wherein it was held that as the assessee had acted in the bona fide belief that the items in respect of which "C" forms were used included in one or other of the items mentioned in the certificates and there was no finding to the contrary the assessee was entitle to relief.

4. In this case, the bona fide use of the form by the assessee, who had used these items in the goods manufactured by him has been accepted by the assessing officer. That plea cannot be said to have been lacking in bona fides as it had uniformly been accepted in all the earlier assessment orders and the certificate was also subsequently amended to include these other items. Having regard to these facts, the assessee cannot be said to have committed an offence u/s 10(b) of the Central Sales Tax Act. We therefore set aside the imposition of penalty. The revision is allowed.

5. Revision allowed.

