(1977) 01 MAD CK 0039

In the Madras High Court

Case No : Tax Case No''s. 154 to 158 of 1973 (Revisions No''s. 131 to 135 of 1973)

Deputy Commissioner (C.T.) APPELLANT

Vs

South India Textile Research Association RESPONDENT

Date of Decision : 19-01-1977

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

Citation : (1978) 41 STC 197

Hon'ble Judges : Sethuraman, J;Ismail, J

Bench : Division Bench

Advocate : Additional Government Pleader, for the Appellant; C. Natarajan, for the Respondent

Final Decision : Dismissed

Judgement

Ismail, J.—All these petitions relate to the same matter in respect of the same respondent for different years. The respondent is an institution carrying on a co-operative research in textile industry and it is supported by the Council of Scientific and Industrial Research of the Government of India. This organisation comes under the overall administrative control of the Government of India and it is financed in equal proportion by the Government of India and the member-mills of the industry. The respondent purchased cotton for its day-to-day research activities. There is no controversy that the purchase of cotton was only for the object of consuming it in the process of the research it carries on. The yarn which is produced in the process is broken, unwound and entangled in the course of testing process and is disposed of as such. For improving productivity and quality, the respondent undertook testing and analysis of the sample and encouraged the member-mills. The respondent also assisted such member-mills in the design and lay-out of the laboratory as well as in the selection of appropriate instruments. The question for consideration was, whether the purchase of cotton by the respondent and the sale of cotton yarn and cotton waste resulting out of the research, which the respondent carries on with the cotton purchased by it, would constitute sales liable to tax under the Tamil Nadu General Sales Tax Act, 1959, hereinafter referred to as the Act, or not. The Tribunal, after referring to the above facts, came to the conclusion that the respondent was not engaged in the carrying on of any business and, therefore, the purchase of cotton and the sale of cotton yarn and cotton waste could not be brought within the scope of the taxing provisions of the Act. It is the correctness of this conclusion that is challenged in the present tax revision cases preferred by the State.

2. The learned Additional Government Pleader stresses on the definition of the term "business" contained in Section 2(d) of the Act. It is true that the said definition is a wide one. According to the said definition, "business" includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture. However, where an organisation is constituted solely and exclusively for the purpose of carrying on research, the purchase of products by the said organisation for the purpose of carrying on its research and the sale of the resulting products by the said organisation cannot be said to be in the nature of trade or commerce so as to bring it within the definition of the term "business" contained in Section 2(d) of the Act. In view of this, we are not convinced that the Tribunal, has committed any error of law in coming to the conclusion it did. Consequently, these petitions fail and they are dismissed with costs, one set. Counsel''s fee Rs. 250 (Rupees two hundred and fifty only).