(1977) 02 MAD CK 0004

In the Madras High Court

Case No : Tax Case No. 86 of 1974 (Revision No. 81 of 1974)

Deputy Commissioner (C.T.), Coimbatore Division APPELLANT

Vs

L.G. Balakrishna and Brothers (P.) Ltd. RESPONDENT

Date of Decision : 10-02-1977

Acts Referred:

Citation : (1979) 43 STC 258

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

Bench : Division Bench

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

Final Decision : Dismissed

Judgement

Ismail, J.—This is a petition to revise the order of the Sales Tax Appellate Tribunal holding that the canteen sales were exempt from tax

since the assessee had subsidised 25 per cent of the total expenses in running the canteen, as prescribed by the relevant Government Order. The

Tribunal has stated :

The total expenses subsidised in regard to the head office at Coimbatore comes to 48 per cent and the branch at Karur comes to 28 per cent.

Hence we find that the turnover of Rs. 12,498.00 and Rs. 24,021 respectively are eligible for exemption.

2. The learned Additional Government Pleader contends that the Tribunal committed a mistake in taking into account the sum of Rs. 4,800

representing the estimated rental value of the building set apart for running the canteen and the sum of Rs. 1,680 representing the electricity charges

as expenses incurred in the running of the canteen. We are unable to accept this contention. As a matter of fact, the assessee claimed that even

depreciation charges should be taken into account and very rightly the Tribunal rejected that claim.

3. As far as the electricity charges of Rs. 1,680 are concerned, it cannot be denied that those expenses were actually incurred. The only contention

then relates to the rental value of Rs. 4,800. The learned Additional Government Pleader contends that the rental value was only estimated and

that, therefore, it cannot be said to be an expenditure actually incurred. As a matter of fact, since the building belonged to the assessee, the

assessee allowed the canteen to be run in that building. But if a building was taken on lease for running the canteen, certainly the rent would form

part of the expenses incurred in running the canteen. Under the circumstances, simply because the assessee''s own building was used for the

purpose of running the canteen, we are not able to accept the argument that the estimated rental value thereof should not be added to the total

expenses incurred for running the canteen for the purpose of calculating 25 per cent thereof with reference to the relevant Government Order.

4. Under these circumstances, we are unable to hold that the Tribunal committed any error of law. We accordingly dismiss the revision petition.

There will be no order as to costs.

