

(1981) 06 MAD CK 0025

In the Madras High Court

Case No : T.C. (Appeal) No. 700 of 1977

Elgi Equipments (P.) Ltd.

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 18-06-1981

Acts Referred:

Central Sales Tax Act, 1956 — Section 14

Tamil Nadu General Sales Tax Act, 1959 — Section 3(1), 37, 4, 51

Citation : (1982) 51 STC 45

Hon'ble Judges : S. Ratnavel Pandian, J; N.V. Balasubramanian, J

Bench : Division Bench

Advocate : N. Inbarajan, for C.S. Chandrasekara Sastri, C. Venkataraman and C. Natarajan, for the Appellant; K.S. Bakthavatsalam, Additional Government Pleader, for the Respondent

Judgement

Balasubrahmanyam, J.—Elgi Equipments (P.) Ltd., Coimbatore (hereafter called the assessee), manufactures and deals in air-compressors.

For the purpose of manufacture, the assessee purchases iron and steel goods, such as R.S. joists, angles, M.S. plates, flats and channels. These

articles are declared goods within the meaning of section 14 of the Central Sales Tax Act, 1956, and of item 4 of the Second Schedule to the

Tamil Nadu General Sales Tax Act, 1959. Accordingly, they are chargeable to sales tax at a single point, the point of taxation being their first sale

in the State. All subsequent sales of such goods are, by definition, not liable to sales tax. The assessee purchases these iron and steel goods from

dealers of such goods in the State. Sales by such dealers may or may not be first sales of such goods inside the State. If they happen to be first

sales, then those sales would be taxable at that point. If the assessee were merely to resell those very goods, then such resales would be second or

subsequent sales, and hence exempt from liability for assessment. What happens in the case, however, is that after the assessee purchases R.S.

joists, angles, M.S. plates, flats and channels, the assessee does not resell them as such, but puts them into a process of manufacture. Outcomes,

from this process, fully manufactured air-compressors, which the assessee thereafter sells in the market. The manufacturing process also leaves

behind certain waste products or by-products of iron and steel, such, for instance, as bits of M.S. rods, plates, shavings, cuttings and other

leavings. The assessee does not allow these materials to go to waste, but sells them for whatever price they fetch in the market.

2. In the year 1972-73, the assessee sold for a total sum Rs. 1,13,130.68 iron and steel scrap which emerged out of its manufactory, in the

manner aforesaid, either as a by-product, or as factory-waste. In its assessment to sales tax for that year, the assessee claimed that the sales

turnover of these iron and steel waste products was exempt from sales tax since it only represented second or subsequent sales of R.S. joists,

angles, M.S. plates, flats and channels which had earlier borne tax at the first sale point in the State as declared goods. The assessing officer

rejected this claim for exemption and assessed the amount to sales tax. On appeal, the Appellate Assistant Commissioner accepted the assessee's

contention. He held that the sales in question were only second sales of declared goods and hence exempts from tax altogether. He, accordingly,

deleted the tax levied on Rs. 1,13,130.68.

3. This order of the Appellate Assistant Commissioner was subsequently taken up in revision, suo motu by the Board of Revenue. On an

examination of the record, the Board held that the iron and steel scrap items sold by the assessee were only discarded items and was waste

materials which had accumulated with the assessee in the course of manufacture. Since they were not the original flats, angles, plates, etc., which

the assessee had purchased locally, the Board held that their sales as scrap product cannot be regarded as second or subsequent sales or declared

goods, which alone were eligible for exemptions under the Act. The Board accordingly set aside the order of the Appellate Assistant

Commissioner and restored that of the assessing authority. The result was that the turnover of Rs. 1,13,130.68 was brought back to tax.

4. The Board's order is now challenged in this appeal. The assessee's learned counsel urged that there can be no difficulty whatever in tracing the

cut bits and other materials sold by the assessee as scrap products to their very source, namely, the original purchase by the assessee of M.S.

plates, flats and the like. The learned counsel's further argument was that if the identity of the scrap is thus established, it would follow that the sale

of such scrap must be regarded as a second or subsequent sale in the State, since the original materials were themselves acquired by the assessee

only under an earlier sale in this State.

5. The argument so addressed is quite against authority, especially that of the Supreme Court in *State of Tamil Nadu Vs. Pyare Lal Malhotra and*

Others, . Even apart from authority, the argument does not stand scrutiny. Sales tax is not a tax on substances. It is levy on commercial goods on

the occasion of their sale or purchase in the course of trade. Goods may be of the same substance, but may yet be different in terms of commercial

exploitation, and so become different subjects of charge. The statutory scheme of single point levy is in recognition of the commercial reality that

there might be a chain of sales of the self-same goods, passing from hand to hand, in the course of trade. The statute selects one particular point in

the series of sales and imposes the liability at that point. In these events, the inquiry is whether the same goods career from one sale transaction into

another in a sequence of sales. In other words, the successive sales in a series must not only be made of the same substance; it is necessary that

they must bear the character of being the same marketable commodity as well. It is not to the point therefore to urge, as it is being argued in this

case, that in the process of being turned over from one dealer to another, the intrinsic substance of the commodities is not lost, although their

commercial identity might get altered sometimes beyond recognition. Single point taxation under our sales tax enactments is by no means based on

the principle of the witticism that "drinking milk is only our way of eating grass". If this view were accepted, then not only the sale of the factory

scrap, which is now in question in these proceedings, but also the sale of air-compressors manufactured as finished goods at the assessee's factory

must both be liable for exemption from taxation as second or subsequent sales. It is, however, not suggested on behalf of the assessee that the

sales of air-compressors are second sales of declared goods. We cannot see any difference in the position of the scrap which emerges from the process of manufacture, as compared to the way in which air-compressors emerge from the assembly-line. In our judgment, both are commodities which are quite different in kind and in character, from the original raw material, although they partake of the same intrinsic substance, namely, iron and steel. Both the scrap and the air-compressors cannot by any means be regarded as the self-same commodity which the assessee has purchased as raw material, when, in commercial fact, there has been a conversion, or metamorphosis, by means of an industrial process. In our judgment, therefore, the Board of Revenue was right in distinguishing the iron and steel scrap forming part of its factory's scrap heap, from the original M.S. rounds, rods and sheets which it earlier purchased in the State as raw material for the manufacture of air-compressors.

6. This, however, does not mark the end of the discussion in this case. For learned counsel for the assessee made another submission which was addressed to the correct tax treatment of the turnover of Rs. 1,13,130.68 in question. At all earlier stages of these proceedings it had been tacitly assumed by the taxing authorities and by the assessee alike that if the sale of the factory scrap is not regarded as a second or subsequent sale of declared goods, then that would inevitably involve the turnover in question being added to the general pool of the assessee's aggregate turnover, there to bear tax at the appropriate multi-point rate u/s 3(1) of the Act. Either the sales must be exempt under the scheme of single point levy as second or subsequent sales of declared goods, or they must suffer tax under the general multi-point scheme. This was how the whole matter of taxation of this turnover had so far been approached. The assessing authority, for its part, brought the turnover of scrap of Rs. 1,13,130.68 at the multi-point rate of tax, when once it rejected the assessee's contention that the turnover was entitled to exemption as second or subsequent sales of declared goods. When, on appeal, the Appellate Assistant Commissioner held that the scrap represented declared goods, what he did was to order the sales turnover in question to be completely exempt, as a necessary consequence. The Board, when it disagreed with the basis of the Appellate Assistant Commissioner's decision, ruled out the exemption and restored the assessment in which tax was charged at multi-point rate.

The endeavour of the assessee's learned counsel now is to question this particular tax treatment which the Board has given to the turnover of Rs.

1,13,130.68, adopting the line of the assessing authority. His submission is that even on the footing that the items of iron and steel scrap sold by the

assessee from out of its factory scrap-heap do not represent the self-same declared goods as R.S. joists, angles, M.S. plates, flats and channels,

which were earlier purchased by the assessee in the State to serve as raw material, yet it cannot be gainsaid that their sale by the assessee is the

first sale in the State, since the first time they emerged as iron and steel scrap in this State was in the assessee's factory during the manufacturing

process. So, when the scrap came to be sold from the accumulated heap in the factory premises, the sales must, in the submission of the learned

counsel, be assessed only as first sales of scrap. And since iron scrap and steel scrap themselves are distinct commodities falling under sub-item (a)

and (c) of item 4 of the Second Schedule as declared goods in their own right, the single point rate against those items must alone be applied, for

purposes of assessment. These, in brief, were the submissions of the assessee's learned counsel.

7. It may be observed that during the relevant assessment year, the multipoint rate of sales tax stood at 3.5 per cent. The single point levy was at 3

per cent for all declared goods grouped under entry 4 of the Second Schedule to the Act. Thus, a distinct tax advantage was discernible in the

present contention advanced by the assessee's learned counsel, an advantage which worked out at the rate of 1/2 per rate. But even if there were

no difference in rates, the argument would still have substance. It would have relevance having regard to the scheme of taxation under the Act. To

the ultimate consumers as well as to the succeeding dealers, the difference in incidence between the single point levy, on the one hand, and

cumulative sales tax, on the other, would be significant in terms of added cost. We have no doubt, therefore, that the learned counsel's contention

on this aspect of the assessment deserves consideration.

8. The learned Government Pleader, however, objected in the first place, to an argument of this kind being allowed to be addressed for the first

time before this Court. He said that all along the only question that was mooted in the case was whether the turnover in question was or was not

exempt as a second sale of declared goods. The learned Government Pleader said that at no time before was the plea raised by the assessee that if

the turnover should become taxable at all, it had to be taxed only as a first sale of declared goods of another description, and cannot be taxed as

non-declared goods taxable at multi-point rate. He cited a Bench decision of the Court in Subramania Pillai v. State of Madras [1971] 27 STC

260 in support of his objection. In that case a best judgment assessment was made against a dealer under the relevant provisions of the Tamil

Nadu General Sales Tax Act, 1959, following the recovery of incriminating slips of paper from the dealer's business place. The dealer appealed

against the assessment. The Appellate Assistant Commissioner reversed the order of assessment, apparently without examining the material to

which reference was made in the assessment order. The Board of Revenue then took up the matter in revision, set aside the Assistant

Commissioner's order, and restored the order of the assessing authority. The dealer took the order of the Board in appeal before this Court u/s 37

of the Act. Before the learned Judges who heard the appeal an attempt was made on behalf of the assessee to put forward certain contentions of a

factual nature which had not been raised at earlier stages of the proceedings. Ramaprasada Rao, J. (as he then was), speaking for the Bench,

observed, in his characteristics style, that the High Court sitting in appeal u/s 51 of the Act cannot ""assist"" an assessee by reopening the whole

process when the assessee himself is shown not to have ""assisted"" the lower authorities with the relevant materials. The learned Government

Pleader relied on this passage in the judgment and said that we too in this case ought to desist from assisting the assessee to raise the new plea

which is now being advanced to the effect that the turnover in factory scrap of Rs. 1,13,130.68 must not be taxed at the multiple point rate of 3.5

per cent, but must be assessed at the single point rate of 3 per cent.

9. We reject as untenable the learned Government Pleader's objection to our entertaining the assessee's plea about the proper mode of

assessment of Rs. 1,13,130.68. We do not regard the Bench decision in the case cited by the Government Pleader as coming in the way of our

entertaining this new point. In our opinion, Ramaprasada Rao, J., by no means intended to define the limits of this Court's appellate jurisdiction u/s

37 of the Tamil Nadu General Sales Tax Act, 1959. Nor do we regard the observations of the learned Judge as laying down guidelines along

which the learned Judges of this Court are to hear and determine sales tax appeals against the Revenue Board's orders. The learned Judge's

observations were provoked by the way the appellant in that case had sought to plead new facts in an effort to canvass the factual findings of the

Board, and they must therefore be read as addressed only to that particular factual situation. u/s 37 of the Act, the High Court is constituted as a

court of appeal, and in the absence of any restriction imposed by the legislature on the court as an appellate body, the obvious legislative intention

is that the court is competent to exercise all powers that are necessary and ancillary to the exercise of appellate jurisdiction. In *Income Tax Officer*

Vs. M.K. Mohammed Kunhi, the Supreme Court held that the power to grant stay of collection of Income Tax pending disposal of a tax appeal is

an incidental or ancillary power implicit in the very constitution by the statute of the Income Tax Appellate Tribunal. In a direct decision, rendered

more recently in *Sankar & Co. v. State of Tamil Nadu* [1980] 46 STC 32, the nature and ambit of the appellate jurisdiction conferred on this

Court u/s 37 of the Act have been clearly laid down. The Bench observed that section 37, while giving a right to an assessee to appeal to the High

Court from an order of the Board of Revenue, does not in any way restrict the scope of the court's appellate jurisdiction. The right of appeal to

this Court, it was said, enured both on questions of fact and on questions of law. The Bench summed up the position by saying that the appeal from

the Board to the High Court was, in effect, a first appeal. We regard this decision as laying down correctly the ambit of the appellate powers of

this Court u/s 37 of the Act. We hold that admitting or shutting down novel points raised by an appellant, which have not been raised in the court

of first instance, is not a matter touching the jurisdiction of the appellate body. At the worst, it can only be a matter calling for the exercise of

discretion by the appellate authority. Even the judgment of Ramaprasada Rao, J., to which reference has been made earlier, may be regarded as

emphasising only this aspect of discretion, and not the basic question of jurisdiction.

10. The learned Government Pleader then submitted that this Court should not exercise its discretion in the assessee's favour in the present case

since all along, and even in this Court, the assessee had pursued an extreme position and had argued for the wholesale exemption of the turnover, a

statement which cannot be sustained either on principle or by authority. It is not a legitimate exercise of this Court's discretionary power, the

Government Pleader said, to permit a party to plead an alternative at the last moment, more especially when it is advanced as a matter of salvaging

the case, rather than as a regular plea in the alternative.

11. These contentions do not carry conviction with us. What is now urged for the assessee does not involve the consideration for the first time by

this Court of any new facts. Not that the need for an exertion of that kind on the part of this Court would be an indicator of a negative kind in the

matter of exercise of the appellate discretion in all cases. Be that as it may, what the assessee urges now is only a plea in the alternative, and a legal

plea at that. Its nature as an alternative plea is not lost merely for the reason that it had not been thought of before. Nor can we dismiss a plea of

that kind on the score that it seems how to have been advanced rather in separation than under conviction.

12. After all, what the assessee presses for before us is the need for a correct assessment of the turnover of Rs. 1,13,130.68, an assessment which

will accord with the facts relating to the nature of the scrap and the nature of its sale. It is urged that if the sale of scrap produced from the

assessee's factory is not exempt as second sale of iron and steel rods purchased by the assessee, but must be dealt with quite otherwise, then

according to the argument, regard must at least be paid to the fact that the scrap had come into existence for the first time only during manufacture

in the assessee's factory, and its disposal by the assessee by way of sale must perforce represent the very first sale of that commodity in this State.

So put, the argument is not only a legal plea, par excellence, but one which, in our opinion, no tax court can, within reason, refuse to entertain. In

substance, the complaint is that the Board had directed the assessment of Rs. 1,13,130.68 to be made under a wrong head, namely, multi-point,

instead of single point, and under a wrong rate, namely, 3.5 per cent, instead of 3 per cent. We have no hesitation in entertaining this plea. For, if

the law were that a particular is to be charged under the single point levy and at a particular tax rate, but the order of assessment discloses that the

transaction is charged as a multi-point item under a different rate, then the only direction in which this Court's discretion can legitimately be

exercised is to entertain that plea and examine it on merits. For, whatever might be the role of discretion of other Appellate Tribunals, and

whatever be the manner of its exercise in other proceedings for appeal, so far as this Court's appellate jurisdiction u/s 37 of this Act is concerned,

this Court has a responsibility, all its own, to see that not a pie more is levied or collected by the authorities than is imposed by the Act. It is this

concern for correctitude in tax assessment which must punctuate the discretion of this Court in the matter of entertaining additional or new pleas in

the appeal, as it must govern the court's ultimate decision on the merits of the case as well.

13. We accordingly overrule the learned Government Pleader's objection and proceed to examine the assessee's contention on merits. We may

observe, to start with, that it is surprising that an elementary position such as is now being argued should have so far eluded both parties for so

long. For, here is a simple case where iron and steep scrap are produced as an inevitable concomitant of factory production. You can call the

scrap an industrial waste, or a by-product. But the significant thing about it is that it emerges as scrap only from the productive process, and not

otherwise. It is not, for instance, acquired by purchase as scrap. It follows that when this scrap is sold either then and there, or after it gets

accumulated in a scrap heap, that sale must in fact and in law be the very first sale of that scrap. It cannot, in the nature of things, be otherwise. It is

this simple truth that has been emphasised by the assessee's learned counsel. His case is that, in the events that happened, the sale by the assessee

of its factory-produced scrap must be dealt with for purposes of sales tax under entry 4(a) or 4(b) of the Second Schedule to the Act which would

only yield a single point tax at the rate of 3 per cent.

14. We think the contention of the assessee's learned counsel is well-founded. Section 4 of the Tamil Nadu General Sales Tax Act, 1959, lays

down that the tax shall be payable by a dealer on the sale or purchase inside the State of declared goods only at the rate and at the point specified

against each in the Second Schedule on the turnover in such goods. Item 4 in the Second Schedule carries a general heading ""iron and steel"" which

is expanded and particularised in clauses (a) to (d). Clause (a), inter alia, refers to iron scrap as an item of declared goods. Clause (c) likewise

refers to steel scrap, among other articles, as declared goods. With reference to these clauses (a) and (c), it is provided in the schedule that

declared goods answering the description are taxable at the point of first sale in the State at the rate of 3 per cent. It may be observed that the

catalogue of sub-items of item 4 in the Second Schedule as well as the rates of levy have undergone subsequent changes, but the position we have

here set out, in brief, was the one which prevailed during 1972-73 which is the assessment year in question in this appeal. In terms of these

provisions, it would be clear, without further discussion, that the turnover of Rs. 1,13,130.68 represents sale of scrap, that the said scrap came out

from the assessee's factory and such scrap falls under clause (a) or (c) of item 4 of the Second Schedule. It further follows that at the point of the

assessee's sale of scrap, which is the first sale of such scrap in the State, tax should be charged at the rate of 3 per cent. Under the scheme of the

Act, the multi-point levy as declared but the charging provisions of section 3(1) would not apply to any sales turnover, if such turnover properly

falls within any exemption provision or within any special taxing provision. Section 3(1) itself has an express saving clause, or parenthesis, to that

effect. It follows, therefore, that when once it is found that the turnover falls to be taxed under item 4 of the Second Schedule at 3 per cent, the

assessment made by the assessing authority, and restored by the Board, which levies tax at the rate of 3.5 per cent u/s 3(1) of the Act must be set

aside as illegal.

15. This conclusion of ours finds support in an unreported decision of a Bench of this Court in T.C. No. 17 of 1964 decided on 23rd March,

1967, (P. S. Ramalingam v. Commissioner of Commercial Taxes, Madras). The Bench had to deal with more or less a similar case as ours. In that

case too, the assessee in question had purchased iron and steel raw materials such as rounds, angles, patti, channels, plates and the like. After

putting them to a process of manufacture, the assessee was left with a quantity of scrap which he sold as such. The question was whether the scrap

thus sold was to be assessed as declared goods falling under item 4 of the Second Schedule to that Act, or whether they were assessable as

hardware"" under the First Schedule to the Act. The judgment of the Bench was that the scrap articles, which became condemned in the process

of manufacture, must be regarded as iron scrap falling under item 4 of the Second Schedule, Veeraswami, J., speaking for the Bench, added the

following incisive observations :

So long as the intrinsic of the iron scrap is present in the article, the source from which it comes can make no difference to its character as iron

scrap We do not see, therefore, why condemned articles made of iron cannot be regarded as iron scrap. Iron scrap in any form and wherever

it comes from is of special importance to the industry in the country.

16. We agree, with respect, with these observations. The last sentence in the above passage obviously has reference to the basic principle behind

the scheme of taxation laid down by section 14 of the Central Sales Tax Act, 1956, and by section 4 of the Tamil Nadu General Sales Tax Act,

1959, read with the Second Schedule thereto. The Bench decision can be regarded as authority for two positions. One is that the question of first

sale under the Second Schedule has to be determined according to the facts relevant to the transaction of sale. How the first seller in the State got

the declared goods in his hands so as to effect their first sale in the State is not a matter of relevance. The second position which emerges from this

decision is that commodities bought and sold may partake of the character of declared goods under one or other of the items or sub-items of the

Second Schedule to the Act and may be properly subjected to single point levy at the appropriate point, notwithstanding that those goods are the

outcome of a process of conversion from certain other declared goods, which goods themselves have either suffered single point tax earlier or got

exempted from tax at other points, prior to their conversion.

17. A later Bench decision reported as Arkay's National Engineering and Foundry Co. v. State of Tamil Nadu [1980] 46 STC 394 was also cited

in argument. The learned Government Pleader seemed to be under the impression that this later Bench decision, or at any rate, certain observations

therein, could not be reconciled with the decision rendered by Veerasami, J., in the unreported case. We do not, however, think there is any

conflict between the two decisions. As in the unreported case, so too in the later Bench case, the assessee in question was a manufacturer of

finished goods from out of M.S. Steel rounds and bars which were purchased in the State. In the process of manufacture of these rounds and bars into finished goods, steel scrap was left over, which the assessee sold within the State. The assessing authority brought to assessment the sale of scrap at single point, as first sale of scrap, invoking for the purpose, item 4(c) of the Second Schedule to the Act. It was the contention of the assessee that the sale of scrap was only a second sale of declared goods since the M.S. rods and bars from out of which the scrap was produced had already been subjected to single point levy as first sales in the State. This contention, however, was rejected by the assessing authority and the assessee's claim for exemption was negatived. It is clear from the judgment, as reported, that the Bench agreed entirely with this determination of the assessing authority and they upheld the assessment of tax at a single point under item 4(c) of the Second Schedule. In the event, we do not find any conflict between this decision and the earlier unreported decision. In both the cases, the judgment was that steel scrap produced out of steel which have earlier borne single point levy as declared goods must nevertheless be liable to tax at the point at which such scrap is sold for the first time inside the State.

18. The learned Government Pleader, however, suggested that a discordant note would seem to have been struck in the later Bench decision in the following passage at least :

The learned counsel for the assessee contend that even within item 4(c) there is an interchangeability and that so long as the goods would fall within the scope of any of the specifications of the said entry then the goods would be eligible for a single point taxation. We are unable to agree with this submission also. Clearly, steel scrap cannot be the same as, e.g., steel ingots, steel bars, etc. If steel ingots are manufactured out of steel scrap, then, the two being two different commercial commodities, they are separate object of taxation.

19. We do not interpret this passage in the way the learned Government Pleader want us to do. It seems to us that far from laying down any proposition at variance with the judgment of Veeraswami, J., the learned Judges have made it quite clear in the above passage that conversion of iron and steel goods from one Second Schedule category into another Second

Schedule category will not lead to exemption from tax of the sales of such converted goods, but it will only tend to create yet another subject of single point charge under one or other of the several sub-items of item 4 of that schedule. The passage further shows that this would always be the case, whatever be the process of conversion - whether, for instance, steel ingots become steel scrap in the process of conversion, or whether it is the other way round, when steel ingots get converted, or get recycled into steel scrap. Either way, to quote the judgment, the converted iron or steel goods would be "separate objects of taxation". What the learned Judges meant to convey was that the converted goods would themselves be separate objects of single point taxation, at the point of first sale after conversion. We are satisfied that the Bench could not have meant to lay down that after conversion the resultant iron and steel goods, when sold, must be subjected to multi-point levy. The question of multi-point levy was not, and could not have been, the subject of discourse in that case. For the one and only controversy between the revenue and the assessee in that case was whether the sale of converted steel scrap was completely exempt from sales tax as second sales of declared goods, as contended for by the assessee, or whether they were properly assessable to single point levy under item 4(c) of the Second Schedule, as maintained by the revenue. It is inconceivable that counsel for the assessee in that case could have invited an assessment to be made on his client under the multi-point rate of 3.5 per cent, when the assessment under revision had actually been made at the lesser rate of 3 per cent under item 4(c) of the Second Schedule. We are accordingly satisfied that there is nothing in this judgment which even remotely supports the contention of the learned Government Pleader that declared goods of one class converted into another class are liable for assessment, at the point of first sale after conversion, only under the multi-point rate of levy.

20. In the result, we hold that the sales of scrap in the sum of Rs. 1,13,130,68 cannot be brought to tax as turnover taxable at multi-point at the rate of 3.5 per cent u/s 3(1) of the Act, but must be brought to charge at the rate of 3 per cent under item 4(a) or (c) of the Second Schedule. The order of the Board of Revenue to the contrary is, accordingly, set aside. The Board is directed to work out the tax effect of our decision in terms

of correct figures. The tax appeal stands allowed on these terms. In the circumstances, however, there will be no order as to costs.

21. Appeal allowed.