(1971) 08 MAD CK 0022

In the Madras High Court

Case No : Writ Petition No. 290 of 1968

Eltex Engineering Corporation Private Ltd. APPELLANT

Vs

The Joint Commercial Tax Officer, Avanashi Road Division RESPONDENT

Date of Decision : 04-08-1971

Acts Referred:
Tamil Nadu General Sales Tax Act, 1959 — Section 3

Citation : (1973) 30 STC 146

Hon'ble Judges : Ramaprasada Rao, J

Bench : Single Bench

Advocate : C. Venkatraman, for the Appellant; K. Venkataswami, First Assistant Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

Ramaprasada Rao, J.—The petitioners are dealers in electrical motors, agricultural pump-sots, etc. They sold ''electrical motors to Messrs.

Elgi Equipments Private Limited, Coimbatore, who in their turn gave what is popularly known as form XVII declarations under which they

declared that the goods were purchased for use as component parts of other goods specified in the First. Schedule and intended for manufacture

inside the State and to be sold inside the State. It is not in dispute that such declarations as prescribed were produced by the petitioners before the

assessing authority. One feature as contained in the Act is that if such declarations are obtained by a seller in the prescribed form, then such dealer

would be entitled to a concessional rate of tax u/s 3(3) of the Tamil Nadu General Sales Tax Act for all such sales effected by him arid covered by

the declaration forms. The petitioners having so effected the sales and having produced the requisite declaration forms before the assessing authority, claimed to be assessed at the concessional rate on a turnover of Rs. 4,08,312 for the assessment year 1966-67. But the respondent who

is the assessing authority in this case, denied the right to such a concession on the ground that the electrical motors sold by the petitioners can be

considered only as accessories as providing motive power and not as components as meant in Section 3(3). Aggrieved by this order wherein the

concessional rate of tax has been denied, the petitioner has come up to this court for a rule of certiorari to quash that portion of the offending order

of the respondent.

2. Section 3(3) undoubtedly postulates a concession in the rate of tax provided the limbs of that section are satisfied. One of the requisites to gain

the concessional rate is to sell goods to another for use by the latter as component parts of any other goods mentioned in the First Schedule, which

the other intends to manufacture inside the State for sale. The motors were declared by the purchaser as so required to be used as component

parts for the other manufacturable goods. Once the declaration is made by the buyer in the prescribed form and as required by the statute, no

other proof of any other circumstance is required to enable the petitioner to gain the concessional rate in Section 3(3) of the Act. In the order, the

assessing authority would say that the motors were used as accessories but not as components. The very fact that it is not in dispute that motors

which are the subject-matter of the sale were used as accessories, it means it became part and parcel of the manufactured product itself, which

automatically would make it a component of it. I am unable to accept the reason given by the respondent, on the foot of which the concession has

been denied. As a matter of fact, this very question loomed large in a case reported in Premier Electro-Mechanical Fabricators v. State of Madras

[1968] 22 S.T.C. 269 wherein a Division Bench of ibis court, to which I ""was a party, observed :

The manner in which the seller has to satisfy the third requisite is as provided in the proviso to the sub-section, namely, production of the

declaration in the prescribed form.

3. Two other requisites referred to in the decision are:

(1) The goods which are the subject-matter of sale, should be those mentioned in the First Schedule, (2) the sale must be to another dealer.

4. Once that is done, there is no further obligation on the part of the selling dealer and he will be automatically entitled to the concessional rate. In

view of this, the petitioner''s complaint that the impugned order is erroneous and suffers from an illegality is justified.

5. The rule nisi is made absolute and the writ petition is allowed. The subject-matter is remitted to the file of the respondent for him to verify form

XVII declarations and grant the concession to the petitioner in accordance with the law and in the light of the observations as above.

