

(1970) 02 MAD CK 0037

In the Madras High Court

Case No : Tax Case No. 394 of 1969 (Revision No. 269 of 1969)

E.M.N. Narayana Chettiar

APPELLANT

Vs

The State of Madras

RESPONDENT

Date of Decision : 02-02-1970

Acts Referred:

Citation : (1971) 27 STC 285

Hon'ble Judges : Ramaprasada Rao, J;Ramanujam, J

Bench : Division Bench

Advocate : C.S. Chandrasekhara Sastry, for the Appellant;

Final Decision : Dismissed

Judgement

Ramaprasada Rao, J.—The petitioner was dealing in grains and pulses. His account books were not accepted by the revenue, in view of the discovery of certain anamath slips which are characterised as regular sheets of paper which appear to have been kept by the dealer almost concurrently with his regular books of account. For the assessment year 1962-63, he disclosed a taxable turnover of Rs. 18,47,834.56. But the revenue after recovery of the anamath slips, which admittedly covered a turnover of nearly rupees two lakhs, exercised their jurisdiction in law and brought to tax the escaped turnover under the best of their judgment. Whilst doing so, they added to the disclosed turnover a sum of about rupees six lakhs. The appeals to the Appellate Assistant Commissioner, as well as to the Appellate Tribunal, were not successful. The Appellate Tribunal, as a matter of fact, finds that the petitioner sought an elaborate enquiry as to the quantum of the alleged suppression and attempted to demonstrate before them to show how much of the turnover could have possibly escaped assessment. His attempt before the Tribunal was that the slips or the bits of paper in which he disclosed surreptitiously the suppressed turnover were regular by themselves in that they disclosed the name of the buyer as also the date of deal and various other entries connected with it, such as realisation etc. On the foot of such disclosure, after discovery by the revenue, it was contended before the Tribunal

that the assessee did not have such quantity of mens rea to avoid or evade tax. The Tribunal refused to accept the plea and confirmed the assessment as made by the revenue.

2. Learned counsel for the petitioner reiterates the contentions made before the Tribunal. He would suggest that the attitude and conduct of the assessee in the instant case is reflective of his honesty, rather than his intention to suppress and avoid tax. The assessee's case is that, after the discovery of the various slips and when his contumacious conduct was sought to be brought to book by the revenue, he attempted to place all available materials so as to avoid a heavy penalty in the nature of an arbitrary addition to the disclosed turnover. Therefore, it is argued that the addition of rupees six lakhs is unreasonable.

3. It cannot be doubted in the instant case that the petitioner indeed suppressed the material and attempted to avoid or evade the tax. But for the steps taken by the revenue to discover and seize the anamath slips, which were large in number, which in turn prima facie disclosed an escaped turnover of nearly rupees two lakhs, probably the assessee's real turnover would not have been brought to tax at all. The explanation given by the assessee that he was very regular in his irregular accounts is only to be heard to be rejected. One cannot be heard to say that in the case of suppressed dealings, there is relative material which is regularly kept by him and such regularity in the maintenance of accounts relating to suppressed dealings should be an extenuating circumstance which would enable him to get relief in some way or other from one or the other in the hierarchy of tribunals. As a matter of fact, in such cases where accounts relating to such illegal activities are regularly kept and maintained, it is the best indicia of a designed motive to avoid tax and it demands a severe treatment in the hands of those who are expected to see that such avoidance of tax is brought to book at the earliest possible stage. The petitioner concedes such suppression of nearly rupees two lakhs and that his regular account books did not contain any such reference to the turnover shown in the various forty slips discovered. The Tribunal finds that the addition of about rupees six lakhs for the year in question cannot be considered to be unreasonable for the reason that for the next year, the turnover as reflected in the books was Rs. 22,64,751.32 for the assessment year 1963-64. It was also noticed that in the subsequent years the turnover as disclosed by the assessee was higher. Having regard to the design and motivated conduct of the assessee, which necessarily gives the impression that there was a wanton suppression of the turnover to avoid taxation, we are unable to interfere with the order of the Appellate Tribunal.

4. No other question of law arises. The tax case is dismissed.