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**(1995) 07 MAD CK 0022**

**In the Madras High Court**

**Case No :** T.C. (R) No. 83 of 1989 (Revision No. 49 of 1989)

Greaves Chitram Ltd. APPELLANT

Vs

State of Tamil Nadu RESPONDENT

**Date of Decision :** 04-07-1995

**Acts Referred:**

Central Sales Tax Act, 1956 — Section 2
Tamil Nadu General Sales Tax Act, 1959 — Section 38

**Citation :** (1995) 07 MAD CK 0022

**Hon'ble Judges :** Venkatachalam, J;Abdul Hadi, J

**Bench :** Division Bench

# Judgement

Abdul Hadi, J.—The assessee, who has failed before all the authorities below, has preferred this revision u/s 38 of the Tamil Nadu General

Sales Tax Act, 1959 (hereinafter referred to as ""the Act""). The turnover no doubt relates to inter-State sale coming under the Central Sales Tax

Act, 1956 and the relevant assessment year is 1983-84.

2. The only question is whether the transportation charges to the extent of Rs. 2,00,000 and the insurance charges to the extent of Rs. 20,000 from

part of the ""sale price"" as defined u/s 2(h) of the Central Sales Tax Act.

The assessee sold a crane to its purchaser for a total consideration of Rs. 21,63,675 which included the abovesaid two figures also, that is one for

transpiration and another for insurance. All the authorities below have concurrently held that the abovesaid Rs. 2,00,000 representing charges and

Rs. 20,000 representing the insurance charges from part of the sale price. But, the learned counsel for the petitioner submits that the authorities

below including the Tribunal have erred in holding that there abovesaid transportation charges and insurance charges form part of the sale price and in assessing the same to tax. The assessee filed the purchase order dated October 1, 1983, received by it from its purchaser to contend that the

abovesaid charges should not have been charged to tax as forming part of the sale price. The relevant portions of the said purchase order, giving

out the terms and conditions of the purchase, run as follows :

Price : The total price for design, manufacture, testing at works, supply duly packed and insured during transit and also insured thereafter upto

commissioning, of 1 No. 3OT gantry crane ........ shall be Rs. 21,63,675 ......... as per details given below :

1. Quoted price for 1 No. 30T capacity ..... crane .. Rs. 18,72,000

2. Price of tools .. Rs. 10,000

3. Spare parts for 3 years .. Rs. 14,500

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4. Total .. Rs. 18,96,500

5. Less 5 per cent discount on total supply value

of Rs. 18,96,500 (-) Rs. 94,825

6. Net firm price .. Rs. 18,01,675

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7. Erection charges for one crane .. Rs. 1,42,000

8. Charges of packing, forwarding, handling, loading,

transportation to site. .. Rs. 2,00,000

9. A comprehensive insurance charges .. Rs. 20,000

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Rs. 21,63,675

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...... The above prices shall remain firm till the supply, erection, testing and commissioning of the crane is satisfactorily completed ......

2. Sales tax and excise duty :

The prices detailed above are exclusive of excise duty, sales tax .......

3. All that learned counsel for the petitioner contends is that the above referred to Rs. 18,01,675 alone is the sale price and the transportation

charges and insurance charges coming under entries 8 and 9 above cannot form

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part of the sale price. But, we are unable to accept this contention.

Even at the very outset, while describing about the price, what is mentioned is, ""the total price for design, manufacture, testing at works, supply

duly packed and insured thereafter up to commissioning, delivery at site ..... 1 No. 30T gantry crane .... shall be Rs. 21,63,675. So, it is clear that

in the contemplation of the parties, that total price for the abovesaid supply and erection, including transportation and insurance is Rs. 21,63,675.

When such is the situation, it cannot be said that the inference is Rs. 21,63,675. When such is the situation, it cannot be said that the inference

drawn by the authorities below that the abovesaid transportation charges and insurance charges also form part of the sale price, can be said to be

in any way wrong.

4. Further, it is significant to note that even the erection charge to the extent of Rs. 1,42,000 is treated as part of sale price and the assessee also

has not taken exception to it. At any rate, we are unable to see any error of law as such in view of the fact that the inference drawn by the

authorities below, based on the abovesaid purchase order, cannot be said to be perverse or in any way unreasonable.

5. We may also point out the following passage in Hindusthan Sugar Mills Vs. State of Rajasthan and Others, , dealing with the term ""sale price"" as

found in the relevant provision of the Rajasthan Sales Tax Act, which is also identical to the definition of the same term under the Central Sales Tax

Act :

This definition is in two parts. The first part says that ''sale price'' means the amount payable to a dealer as consideration for the sale of any goods.

Here, the concept of real price or actual price retainable by the dealer is irrelevant. The test is, what is the consideration passing from the purchaser

to the dealer for the sale of the goods. It is immaterial to enquire as to how the amount of consideration is made up, whether it includes excise duty

or sales tax or freight. The only relevant question to ask is as to what is the amount payable by the purchaser to the dealer as consideration for the

sale and not as to what is the net consideration retainable by the dealer.

6. We, therefore, see no merit in this revision and accordingly it is dismissed with costs. Counsel fee Rs. 1,000.

7. Petition dismissed.

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