(1983) 06 MAD CK 0004

In the Madras High Court

Case No : Tax Case No. 482 of 1983 (Revision No. 179 of 1983)

Hindustan Timber Depot APPELLANT

Vs

State of Tamil Nadu RESPONDENT

Date of Decision : 30-06-1983

Acts Referred:
Tamil Nadu General Sales Tax Act, 1959 — Section 7

Citation : (1984) 56 STC 69

Hon'ble Judges : G. Ramanujam, J;Fakkir Mohammed, J

Bench : Division Bench

Advocate : K.J. Chandran, for the Appellant;

Judgement

Ramanujam, J.—The assessee in this case is a manufacturer of packing cases. It purchases timber in logs, cuts the timber into sizes and

planks and thereafter makes the requisite packing cases. The question in this case is whether the assessee has purchased timber for consumption in

its manufacture of packing cases so as to attract section 7A of the Tamil Nadu General Sales Tax, 1959. The Tribunal has held that the purchases

of timber by the assessee is for consumption in the manufacture of packing cases, and therefore, section 7A stands attracted. The said view has

been challenged by the assessee in this tax revision case.

2. On a due consideration of the matter, we are satisfied that the Tribunal has come to the right conclusion. The learned counsel for the assessee

contends that the timber purchased by it has not been consumed in its manufacture of packing cases, that the expression ""consumes"" cannot be

equated to ""uses"" and that, therefore, so long as there is no consumption of wood in the manufacture of packing cases, the assessee cannot be made liable to be taxed u/s 7A. The learned counsel seeks to give a restricted meaning to the word ""consumes"" occurring in section 7A. According

to him, the expression has been used in the sense of devouring and in this case, even after the manufacture of packing cases, the timber is in the

form of packing cases and there is no question of devouring. The learned counsel refers to the decision of a Division Bench of this Court in State of

Tamil Nadu v. Subbaraj & Co. [1981] 47 STC 30 in support of his submission that the expression ""consumes"" occurring in section 7A should be

understood in the sense of devouring. Even assuming that the expression ""consumes"" should receive a restricted construction such as devouring,

still, in this case, the timber loses its identity after the manufacture of packing cases and it cannot be said to retain its identity. As a matter of fact,

the assessee''s own case is that it purchases timber in logs, cuts them to sizes and then manufacturer the packing cases. Once the timber is used in

the manufacture of packing cases, the identity of the timber as such is lost and it stands converted by a process of manufacture into packing cases.

It is not the assessee''s case that the process of making packing cases will not amount to manufacture. If it succeeds in establishing that what it

carries on is not manufacture, then it may be said that the timber has not been consumed in the manufacture of packing cases. Once it is conceded

that the business carried on by the assessee is manufacture of packing cases, then the use of the timber in the manufacture of packing cases should

be taken to involve consumption of timber in the manufacture of packing cases. Thus, even interpreting the expression ""consumes"" as amounting to

devouring, here, on the facts of this case, the timber should be taken to have been devoured in the manufacture of packing cases and it loses its

identity once and forever. A packing case, in any sense of the term, cannot be called timber, for it not only becomes a different commercial

products but its uses also are different. No one can call a packing can as timber as such. The decision in State of Tamil Nadu v. Subbaraj & Co.

[1981] 47 STC 30, on which reliance is placed by the assessee itself, lays down that once the identity of the goods is lost in the process of

manufacture then the goods should be taken to be consumed in the manufacture. Thus, we find that even applying the decision in State of Tamil

Nadu v. Subbaraj & Co. [1981] 47 STC 30, we have to hold that in this case there is consumption of timber in the manufacture of packing cases.

This will show that section 7A has rightly been applied to the facts of this case. The tax case is, therefore, dismissed.

