(1977) 02 MAD CK 0015

In the Madras High Court

Case No : Tax Case No. 187 of 1977 (Revision No. 31 of 1977)

Imperial Match Works — APPELLANT

Vs

The State of Tamil Nadu — RESPONDENT

Date of Decision : 10-02-1977

Acts Referred:

Tamil Nadu General Sales Tax Act, 1959 — Section 38

Citation : (1982) 51 STC 397

Hon'ble Judges : Sethuraman, J;Ismail, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Sethuraman, J.—This revision petition has been filed u/s 38 of the Tamil Nadu General Sales Tax Act, 1959, against the order of the Sales

Tax Appellate Tribunal, dated 9th April, 1976. The assessment year under consideration is 1970-71. The assessing officer issued pre-assessment

notice on 19th March, 1974 and during the proceedings that were initiated thereby, the assessee had to produce C forms in order to be eligible for

exemption claimed by it. The assessee applied for extension from time to time and the last extension was up to 15th May, 1974. As the assessee

did not produce any C form by that date, the assessing officer passed an order on 16th May, 1974. The assessee produced the C form on 31st

May, 1974. In the appeal before the Appellate Assistant Commissioner, the assessee contended that the time had been requested up to 31st May,

1974, but this was not borne by the record. The appellate authority, therefore, held that as the assessee had failed to produce any C forms on or

before 15th May, 1974, the assessing officer''s action in including the turnover relating to the items not covered by C forms in the turnover taxable at the higher rate of 10 per cent Central sales tax was proper. In the further appeal, the Sales Tax Appellate Tribunal also found that the assessee

did not raise any plea or did not show any proof of sufficient cause for non-production of C forms before the assessing authority within the time

allowed and that the assessee had not filed the C forms within a reasonable time, so that he was not entitled to any concessional rate of tax in

respect of the transactions. It is this conclusion of the Sales Tax Appellate Tribunal that is sought to be challenged in the present revision petition.

2. The only question that arose for consideration before the Tribunal was whether a reasonable opportunity was given to the assessee to produce

the C forms. The assessee himself wanted time for production of the C forms up to 15th May, 1974 and that request had been granted by the

assessing authority. But the assessee did not produce the C forms before 15th May, 1974. The fact that he subsequently produced the C forms

cannot in any way justify the assessee''s contention that necessary opportunity had not been granted to the assessee for the production of the C

forms. There is no error of law in the conclusion arrived at by the Tribunal.

3. The tax revision case is dismissed.

