(1947) 07 MAD CK 0017

In the Madras High Court

In Re: Akulu Paddayya Naidu

Date of Decision : 24-07-1947

Acts Referred:

Madras General Sales Tax Act, 1939 — Section 15(b)

Citation : AIR 1948 Mad 104 : (1947) 60 LW 579 : (1947) 2 MLJ 255

Hon'ble Judges : Chandrasekhara Aiyar, J;Chandrasekhar Aiyyar, J

Bench : Division Bench

Judgement

Chandrasekhar Aiyyar, J.—The second accused who is the petitioner in this criminal revision case was convicted u/s 15(b) of the Madras

General Sales Tax Act, 1939, for failure to pay the tax due from him within the time allowed and sentenced to pay a fine of Rs. 100. There was

another accused in the case who was similarly convicted and fined, but he is not before us.

2. The demand notice in Form No. B for the sales-tax due by the firm called Siddareddi Acharyulu and Sons was served on the first accused on

11th November, 1945. It is Ex. P-2. Though the second accused pleaded that he had nothing to do with the firm, it has now been found that he

was a partner of the firm along with the first accused. This finding has not been challenged.

3. What is urged on behalf of the petitioner is that as the demand notice was not served on him personally, he cannot be held liable u/s 15(b). As

already stated, the demand notice Ex. P-2 was addressed to the firm and served on the first accused, the other partner.

4. The firm is ""a dealer"" within the meaning of the Act under Explanation (1) of Sub-clause (b) of Section 2. The fact that the firm is a dealer and

can be proceeded against as a firm does not appear to me be a bar to proceedings being initiated against the partners of the firm. The partners are bound by the notice to submit the return and to pay the tax, and if there is failure on their part to do so, the penal consequences provided in

Section 15 follow. There is no provision either in the Act or under the rules framed thereunder requiring that the demand notice shall be served

personally on the man sought to be proceeded against The notice in the present case was served on the partner of the firm, and this is sufficient

notice to the firm and to all the partners who are jointly and severally liable for the payment. If the service was good as against the firm it is good as

against the partners composing the firm, and the petitioner must be deemed to have had notice of the time allowed for payment. He comes directly

within the description of "" a person who fails to pay the tax due from him within the time allowed "", as it cannot be denied for a moment that the tax

was due from him as a partner of the firm and on which firm the demand was made through the other partner.

5. The revision petition is dismissed.

