
(1972) 05 KL CK 0003
In the High Court Of Kerala
Case No : O.P. No. 3445 of 1970

I.V. Somasundaram

APPELLANT

Vs

Sales Tax Officer, Special Circle II

RESPONDENT

Date of Decision : 30-05-1972

Acts Referred:

Kerala General Sales Tax Act, 1963 — Section 2(xxvii)

Citation : (1973) 30 STC 260

Hon'ble Judges : M.U. Issac, J

Bench : Single Bench

Advocate : T.C. Mohandas, for the Appellant; The Government Pleader, for the Respondent

Judgement

M.U. Isaac, J.—The petitioner is the proprietor of a printing press who undertakes job-works. For the year 1968-69, the petitioner was assessed by the respondent, the Sales Tax Officer, Special Circle II, Palghat, under the Kerala General Sales Tax Act, 1963, on a total turnover of Rs. 45,303.34 which represented the petitioner's gross receipts on account of cost of paper supplied for executing the orders for printing and also the printing charges. The petitioner claimed exemption in respect of a sum of Rs. 8,501.91, which he received on account of printing judgments of courts. That claim was disallowed. He has now filed this writ petition on the basis of the decision of this court in Srinivasa Printing Works v. Sales Tax Officer 1967 K.L.J. 665 contending that no portion of his turnover is taxable, as the business carried on by him does not constitute any sale of goods. In that case, the dealer's turnover was assessed as falling under item 42 in Schedule I of the Act, which was chargeable only at the point of first sale in the State. That item was as follows :

Paper (other than newsprint), cardboards, straw boards and their products.

The assessment was set aside on the ground that the assessee was not the first seller of paper in the State, and that the printed matter is not a paper product. Item 42 was deleted from the schedule by the Kerala General Sales Tax

(Amendment) Act, 1967. The result is that all the goods mentioned in that item would thereafter be taxable at all points of sale. The petitioner in the instant case has been assessed on that basis. Hence the above decision cannot help him. Therefore the question whether the petitioner is liable to be assessed in respect of the amounts received by him on account of printing has to be considered in the light of the above amendment of the Act.

2. The execution of an order for printing in a case where the customer does not supply the paper involves supply of paper and the labour necessary for the printing. Therefore, the total receipts on account of printing in such a case consists of the cost of paper and the printing charges. The learned Government Pleader drew my attention to Clause (i) of explanation (2) in Section 2(xxvii) of the Act, which defines "turnover". That explanation reads :

Subject to such conditions and restrictions, if any, as may be prescribed in this behalf-

(i) the amount for which goods are sold shall include any sums charged for anything done by the dealer in respect of the goods sold at the time of, or before, the delivery thereof.

In my view, the above explanation does not apply to the case, as what is supplied ultimately by the printer to the customer are not goods belonging to him. The printing of judgments is a conspicuous illustration. When a court places an order with a printer to print its judgments on paper supplied by the printer, the printer does not sell the printed judgments to the court. He has no property in the printed judgments, though he may have a lien thereon for the money due to him. Therefore, it is clearly a case where the printer supplies the paper and the labour. The cost of labour is not chargeable under the Act, while the cost of paper is.

3. For the reasons stated above, the impugned assessment, exhibit P-2, as it stands, cannot be sustained. The printing charges received by the petitioner have to be deducted from the total receipts to arrive at the taxable turnover. Exhibit P-2 is, therefore, quashed ; and the respondent is directed to reassess the petitioner in respect of the cost of the paper involved in the execution of the works in the light of the observations herein contained. There will be no order as to costs.