courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 24/08/2026

(1995) 03 MAD CK 0065

In the Madras High Court

Case No : T.C. No. 1259 of 1984 (Revision No. 166 of 1984)

K.N.I. Eqbal APPELLANT

Vs

State of Tamil Nadu RESPONDENT

Date of Decision : 23-03-1995

Acts Referred:
Central Sales Tax Act, 1956 — Section 10, 10A

Citation : (1995) 03 MAD CK 0065

Hon'ble Judges : T. Jayarama Chouta, J;K.A. Thanikkachalam, J

Bench : Division Bench

Judgement

Thanikkachalam, J.—The assessee is the petitioner herein. The assessee is the dealer in groundnut oil and oil-cake in Singampunari. The

assessee is a dealer under the Central Sales Tax Act, 1956. From the verification of the accounts, the assessing authority found that the assessee

had purchased groundnut kernel from other States to the extent of Rs. 4,85,439 by issue of ""C"" forms during the assessment year 1980-81. Since

groundnut was not covered by the registration certificate, the assessing authority was of the opinion that the assessee had falsely represented to

their sellers while purchasing those goods that they were covered by the registration certificate under the Central Sales Tax Act, 1956. In the

penalty proceedings initiated u/s 10A of the Central Sales Tax Act, the assessee explained that he was under the bona fide belief that groundnut

kernel will also come under the foodgrains and hence he could get groundnut kernel from outside the State by issue of ""C"" forms. Therefore,

according to the assessee, there is no false representation, attracting penalty u/s 10A of the Central Sales Tax Act. However, the assessing

authority came to the conclusion that the purchase of groundnut kernel by issuing ""C"" forms would amount to purchasing the goods under false

representation. Accordingly the penalty of Rs. 43,690 was levied. On appeal, the Appellate Assistant Commissioner, while agreeing with the

assessing officer in the matter of levying penalty, reduced the quantum of penalty to Rs. 29,125. Aggrieved the assessee filed the appeal before the

Tribunal. The Tribunal also accepted the view taken by the authorities below that penalty is leviable in this case u/s 10A of the Act. But considering

the other aspects, the penalty was further reduced to Rs. 15,000. It is against that order, the present revision has been preferred by the assessee.

The learned counsel appearing for the assessee submitted that the assessee is dealer in groundnut oil and oil-cakes. Groundnut kernel is the raw

material for producing groundnut oil. In the registration certificate it is stated that the assessee is entitled to purchase foodgrains by issuing ""C

forms. Since groundnut is also one of the items under foodgrains, purchase of the same by using ""C"" forms would not amount to any false

representation. The learned counsel further submitted that the assessee was under the bona fide belief that the groundnut kernel will also come

under the foodgrains and hence purchasing groundnut kernel by issuing ""C"" forms would not amount to false representation, attracting penalty u/s

10A of the Central Sales Tax Act. Ultimately, the learned counsel submitted that since the assessee was having bona fide belief in purchasing

groundnut kernel by using the ""C"" forms, no penalty is leviable u/s 10A of the Act. The learned counsel also submitted that the department fails to

establish that there is mala fide intention on the part of the assessee in purchasing the groundnut kernel by using the ""C"" forms. According to the

learned counsel, unless the mens rea is established, no penalty is leviable u/s 10A of the Act. In order to support his contention, the learned counsel

for the assessee relied upon various decisions.

3. On the other hand the learned Additional Government Pleader (Taxes) while supporting the order passed by the Tribunal contended that

groundnut kernel cannot come under the category of foodgrains since groundnut kernel is an oil-seed and the assessee having known that the

groundnut kernel would not come under the category of foodgrains, purchased the goods by issuing ""C"" forms. This would go to show the mala

fide intention on the part of the assessee in purchasing the goods with false

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/kni-eqbal-appellant-hash-state-of-...

representation. According to the learned Additional Government

Pleader (Taxes), the authorities below as well as the Tribunal categorically gave findings to the effect that the assessee made false representation by

issuing ""C"" forms to purchase groundnut kernel while under registration certificate the assessee is entitled to purchase only foodgrain. The learned

Additional Government Pleader also brought to our notice that the groundnut has been enumerated under a separate heading as oil-seeds and

therefore it cannot come under class or classes of goods, viz., foodgrain. The learned Additional Government Pleader (Taxes) submitted that

though the assessee deliberately issued ""C"" forms to purchase groundnut kernel, in the registration certificate it was stated that the assessee is

entitled to purchase only foodgrains. Therefore it cannot be said that there is bona fide on the part of the assessee in purchasing the groundnut by

using the ""C"" forms. In order to support the contention put forth by the learned counsel for the department, our attention was drawn to decisions

rendered by this Court and various other courts.

4. We have heard the rival submissions. The assessee is a dealer in groundnut oil and oil-cake. In the relevant assessment year, the assessee

purchased groundnut kernel for extracting groundnut oil. The assessee used ""C"" forms for purchasing the groundnut kernel. In the registration

certificate the assessee is entitled to purchase foodgrains. According to the assessee groundnut kernel is also an item which would come under

foodgrains and therefore purchase of groundnut kernel by using ""C"" forms would not amount to any false representation. According to the

department, the assessee having known that the assessee is not entitled to purchase groundnut kernel by using ""C"" forms deliberately purchased the

goods by falsely representing that the assessee is entitled to purchase groundnut kernel by issuing ""C"" forms.

5. The point for consideration is whether the groundnut kernel would come under the definition ""foodgrains"". No doubt it is true that groundnut is

the raw material for extracting groundnut oil. Without the groundnut the assessee cannot extract groundnut oil or get oil-cake for selling. But the

point is whether the assessee can purchase groundnut kernel by issuing ""C"" forms.

6. In order to sustain the penalty, the Tribunal relied upon a decision of the

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/kni-eqbal-appellant-hash-state-of-...

Kerala High Court reported in 1980 46 STC 103 in the case of

Integrated Enterprises v. State of Kerala. According to the facts arising in this case, the assessee was registered as a dealer under the Central

Sales Tax Act in respect of dealing in Coca-Cola, Fanta orange and Fanta soda and was entitled to purchase for resale those articles at

concessional rates of sales tax after issuing ""C"" forms. The assessee purchased bottle coolers by issuing ""C"" forms although the registration

certificate issued to the assessee did not include bottle coolers. The question was whether there was any violation of section 10(b) of the Central

Sales Tax Act. This decision was rendered since the goods purchased by the assessee by using the ""C"" forms is totally different and unconnected

with the nature of the business done by the assessee.

7. A similar question came up for consideration before this Court in the cage of State of Tamil Nadu v. Imperial Bottlers 1993 3 MTCR 189

wherein the question that arose for consideration was whether purchase of crown corks will amount to misuse of form ""C"" and attract penalty u/s

10A(1) of the Central Sales Tax Act. According to the facts arising in that case, the assessee was doing business as manufacture of soft drinks

(beverages). The assessee is entitled to purchase bottles as per the registration certificate. But the assessee purchased crown corks by using the

C"" forms. The department contended that the crown cork is not mentioned in the registration certificate. Therefore, the purchase of crown corks

by using the ""C"" forms would attract u/s 10A of the Central Sales Tax Act. While considering this argument, this Court pointed out that mere

purchase of bottles without purchase of crown corks would have been useless for processing of manufacture of materials, i.e., soft drinks.

Therefore this Court held that the purchase of crown corks by using ""C"" Forms would not amount to making any false representation, attracting

penalty u/s 10A of the Central Sales Tax Act.

8. In the case of State of Tamil Nadu v. United India Roller Flour Mills Ltd. 1992 2 MTCR 32 this Court held that in order to levy penalty u/s

10A of the Act, the authorities should give categorical finding that there is no bona fide on the part of the assessee in purchasing the goods by using

the ""C"" forms and the department should also establish mens rea in such purchases made by the assessee. Without categorical finding on these

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/kni-eqbal-appellant-hash-state-of-...

aspects, this Court pointed out that no penalty is leviable u/s 10A of the Act. In other words, in order to levy penalty for commission of an offence

u/s 10A there must be a definite finding regarding false representation or existence of mens rea and that in the absence of proof of mens rea the

assessee cannot be penalised for the said offence. So also in the case of Tamil Nadu Small Industries Corporation Ltd. v. State of Tamil Nadu

1992 2 MTCR 99 this Court while considering the provisions of sections 10(a), 10(b) and 10A of the Central Sales Tax Act held that in the

absence of the definite finding that there is false representation in the matter of purchasing goods by using ""C"" forms it is not possible to levy penalty

u/s 10A of the Act.

9. In the case of State of Tamil Nadu v. Betala Industries [1993] 88 STC 328 this Court held that a finding to the effect that the assessee made a

false representation in purchasing the goods by issuing ""C"" forms while those goods were not enumerated under the registration certificate is

absolutely necessary and a condition precedent for levy of penalty.

10. A plain reading of the orders passed by the authorities below as well as the Tribunal in the present case would go to show that a finding was

given to the effect that the assessee made false representation while purchasing the groundnut kernel by using ""C"" forms. But the question of mens

rea was not clearly established in the present case by the department by adducing cogent, convincing and acceptable evidence. Merely stating that

the assessee made a false representation by issuing ""C"" forms alone would not be sufficient to come to the conclusion that there is mens rea on the

part of the assessee in committing the offence punishable u/s 10A of the Act.

11. In the present case, as pointed out earlier, the groundnut kernel, being an essential raw material for the purpose of producing or manufacturing

the groundnut oil and oil cakes, the groundnut kernel is an essential commodity for the manufacture of the goods in which the assessee is having

dealing. Without groundnut kernel, it is not possible for the assessee to carry on his trade. No doubt in the registration certificate it is stated that the

assessee is entitled to purchase foodgrains. The assessee in order to carry on his business purchased groundnut kernel outside the State by using

the ""C"" forms. By doing so, the assessee would have entertained a bona fide belief in his mind that the groundnut kernel would come under

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/kni-eqbal-appellant-hash-state-of-...

foodgrains"", as stated in the registration certificate. While the registration certificate was issued, the authorities would have known that the business

carried on by the assessee was manufacturing groundnut oil and groundnut oil-cake. Therefore there would have been an identity of the mind while

mentioning in the registration certificate that the assessee can purchase foodgrains by using ""C"" forms, the assessee would also be entitled to

purchase groundnuts considering the nature of business run by the assessee. Since the groundnut happens to be an essential commodity for the

purpose of doing business run by the assessee, it cannot be said that purchase of groundnut kernel by using ""C"" forms would amount to false

representation made to his sellers. There cannot also be any guilty mind or mens rea in using the ""C"" forms to purchase the essential commodity for

running his business. It is the only essential commodity which is absolutely essential for the purpose of carrying on the trade run by the assessee.

Under such circumstances we consider that purchase of groundnut kernel by the assessee by using the ""C"" forms would not amount to making any

false representation or any mala fide intention on the part of the assessee in violating the provisions contained in section 10(b) of the Act.

Accordingly we hold that penalty u/s 10A of the Act is not sustainable. In that view of the matter, we cancel the penalty levied u/s 10A of the

Central Sales Tax Act.

12. In the result, the revision is allowed. No costs

13. Petition allowed.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/kni-eqbal-appellant-hash-state-of-...