

(1980) 09 MAD CK 0008

In the Madras High Court

Case No : T.C. No. 938 of 1979 (Appeal No. 36 of 1979)

K.S. Vasan and Sons

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 29-09-1980

Acts Referred:

Citation : (1982) 51 STC 353

Hon'ble Judges : M.M. Ismail, C.J;M.A. Sathar Sayeed, J

Bench : Division Bench

Advocate : N. Inbarajan, for C.S. Chandrasekara Sastri, C. Venkataraman and S. Chandrasekaran, for the Appellant; K.S. Bakthavatsalam, Additional Government Pleader, for the Respondent

Judgement

Ismail, C.J.—This is an appeal against the order of the Board of Revenue suo motu revising the order of the Appellate Assistant

Commissioner, Coimbatore, and restoring the order of the Deputy Commercial Tax Officer, Mettupalayam.

2. The only question that arose was whether what the dealer-petitioner purchased was ""timber"" or ""firewood"". The Board pointed out :

The purchase of the cut-ends from persons other than the assessee is not denied. The only dispute is whether the cut-ends could be classified as

timber or as firewood. In decimeter ding this issue a certificate issued by the forest department is of no significance, for, it is not clear on what basis

the forest department gave certificate that the cut-ends could be classified as firewood. The assessee is not a dealer in firewood. His letter-head

described him as a manufacturer of wooden cable drums and other wooden articles and dealer in all kinds of timber. Apart from cable drums the

assessee also deals in timber of all kinds but definitely not in firewood. Only

certain varieties of trees are commercially described and known as firewood like casuarina. Just because any tree could be split and used as firewood, it cannot be said that the logs of the tree are to be classified only as firewood. Even the size of the wood cannot determine whether the wood is to be classified as firewood. Even in the reply dated 5th July, 1978, the dealer himself described the cut-ends as only wood and these cut-ends are said to be below 1.2 metres. This merely shows that the dealer has selected and picked up wood of suitable size for manufacture of cable drums. It is common knowledge that firewood cannot be raw material (and) that the wood required for manufacture of cable drums should be of specific quality and size. The contention that what the assessee purchased was only firewood is not supported by any proof of evidence.

3. The above reasoning of the Board of Revenue is unexceptional.

4. However, what the learned counsel for the petitioner contends is that the forest department has given a certificate that what the petitioner purchased was only "firewood". That certificate, as placed before us, reads as follows :

Certified that wood below 1.2 decimetre (1.2 M) long would not be considered as timber. It is considered as firewood only.

5. The same has been signed by the Forest Range Officer, Coonoor Range, Coonoor. The language in the certificate does not indicate with reference to what test or for what purpose the Forest Range Officer sought to make a distinction between "timber" and "firewood". As far as assessment to general sales tax is concerned, what is relevant is how a particular commodity is generally known amongst the public; and once a particular article or material is known as timber or firewood, no amount of certificate given by a Forest Range Officer, like the present one, can be of any value.

6. Having regard to the reasoning given by the Board of Revenue on the basis of the admitted fact, whose correctness is not questioned, we see no justification whatever to hold that the Board of Revenue committed an error. Hence the appeal fails and is dismissed. There will be no order as to costs.

7. Appeal dismissed.