(1966) 03 MAD CK 0021

In the Madras High Court

K.S. Venkataraman and Co. (P.), Ltd. APPELLANT

Vs

State of Madras RESPONDENT

Date of Decision : 22-03-1966

Acts Referred:

Citation : (1966) 79 LW 392 : (1966) 2 MLJ 238

Hon'ble Judges : P.S. Kailasam, J

Bench : Division Bench

Judgement

P.S. Kailasam, J.—These petitions are filed praying for the refund of Court-fee paid by the petitioner in the Writ Petitions filed before this

Court. These petitions were filed for the issue of Writs in the nature of mandamus and certiorari for quashing certain sales tax assessments made

against it. Before these petitions were numbered, they were returned for rectifying certain defects. Before these defects were rectified, an appeal

by the petitioner to the Supreme Court regarding the same matter was allowed. Therefore, the petitioner felt that it was not necessary to prosecute

these Writ Petitions. In the circumstances the petitioner has prayed for refund of the Court-fee paid by it in these Writ Petitions.

2. The provision relating to refund of the Court-fee is Section 70 of the Madras Court-fees and Suits Valuation Act, 1955. Under the Section,

when the fee is paid by mistake or inadvertance, it shall be ordered to be refunded. The fee was certainly not paid by any mistake or inadvertance.

It was deliberately paid for obtaining the relief in the Writ Petitions. But as an appeal was decided in its favour, the petitioner did not want to

pursue the Writ Petitions. In the circumstances, Section 70 will not be applicable.

3. In Veeramalai Chettiar and Others Vs. Ramayee Ammal, the circumstances

under which refund of Court-fee could be ordered are set out. In

M.S. Balakrishna Chetty Vs. The State of Madras, a Bench of this Court held that the Court-fee of Rs. 100 paid under the provisions of the

Madras General Sales Tax Act should be refunded when the revision petition was sought to be withdrawn before it took effect by being taken on

file and numbered. The Bench held that as the provisions of the Court-fees Act are obviously not applicable and as there is no provision in the

Sales Tax Act relating to refund of Court-fee, the Court can exercise its inherent jurisdiction and direct a refund of the fee where the petition was

sought to be withdrawn before it took effect by being taken on file and numbered.

4. There is no dispute that the Court-fee payable in the Writ Petitions is governed by the Madras Court-fees and Suits Valuation Act, 1955 and,

therefore, Section 70 of the Act is applicable. The decision in M.S. Balakrishna Chetty Vs. The State of Madras, is not applicable as the Court-

fee was paid under the General Sales Tax Act where there are not provisions relating to refund of fee. The fee paid cannot be refunded under the

Court-fees Act. When the Act specifically provides under what circumstances a refund can be ordered, it is not justifiable for the Court to exercise

its inherent powers and direct refund in cases not covered by the Act.

5. These petitions are dismissed.

