(1956) 02 MAD CK 0001

In the Madras High Court

Case No : City Civil Court Appeal No. 99 of 1952

Louis Dreyfus and Co. Ltd. APPELLANT

Vs

State of Madras RESPONDENT

Date of Decision : 24-02-1956

Acts Referred:

Constitution of India, 1950 — Article 286
Madras General Sales Tax Act, 1939 — Section 3

Citation : AIR 1957 Mad 762 : (1956) 7 STC 720

Hon'ble Judges : Ramaswami, J;Govinda Menon, J

Bench : Division Bench

Advocate : King and Partridge, for the Appellant; Asst. Govt. Pleader and V. Srinivasan, for the Respondent

Final Decision : Allowed

Judgement

Govinda Menon, J.—The plaintiff claimed the recovery of a sum of Rs. 8,514-12-6 levied by the State of Madras as purchase tax on the

ground that the transaction took place in the then Province of Madras, whereas the plaintiff''s case is that no part of it ever took place in Madras.

The learned City Civil Judge found that the sales tax was rightly and legitimately levied and therefore dismissed the suit.

2. According to the plaintiff, the company which is registered in England, with the Indian headquarters at Bombay and a branch in Madras used to

enter into contracts with Bombay merchants for the purpose of supplying the company with groundnuts with the object of exporting them to

England. The Bombay merchants have their own agents in the State of Madras who used to procure the goods and supply the same.

The terms of the contract as evidenced by Exs. A. 8 and A. 9 show that when the railway receipts are produced in the Bombay office with the invoice, 90 per cent of the price would be paid for the goods, which should be transported to the port of Mormagoa, where the plaintiff''s agents

weigh the same and inspect them and if the goods are suitable and according to specifications, they are accepted for the purpose of shipment.

Thereafter the balance of 10 per cent is also paid at Bombay. If may also be mentioned that the railway receipts were in the name of the plaintiff

both as consignor and consignee in order to comply with wartime regulations.

3. On these facts, the question is whether the plaintiff is liable to pay tax. A similar case arose in O.S.A. Nos. 62 of 1951 and 54 of 1953 (Mad)

(A), where Rajagopalan and Rajagopala Aiyangar JJ. on 16-2-1956 held that no part of the transaction took place in Madras and as such the

State of Madras has no jurisdiction to levy the sales-tax. The learned Assistant Government Pleader contends that the facts of the present case are

somewhat different for the reason that there is no evidence of the nature of the transaction as outlined by us above.

The learned City Civil Judge himself seems to think that it is immaterial whether the plaintiff-company entered into contracts with the Bombay

merchants in the City of Bombay, paid the price of the groundnut at Bombay and took delivery of the goods at Marmagoa after weighing and

approving them.

Since, the facts are as stated above, the principles enunciated in the case just cried apply to the present case. There is no doubt whatever that there

would not be different kinds of contracts for the plaintiff with regard to the same sellers whose agents procure goods in the districts of the Madras

Presidency.

That being the case and especially since the learned City Civil Judge was of opinion that even if the delivery was at Bombay and payment of the 90

per cent and the weighment and inspection was at Marmagoa, still the sale takes place in Madras, we feel that his conclusion is opposed to the

decision just mentioned.

4. Following the decision in O.S.A. Nos. 62 of 1951 and 54 of 1953 (Mad) (A), we allow the appeal and decree the plaintiff''s suit as prayed for

with costs throughout.

