
(1997) 04 MAD CK 0098
In the Madras High Court
Case No : Tax Case (R) No. 282 of 1985

M.L. Pujara

APPELLANT

Vs

State of Tamil Nadu and another

RESPONDENT

Date of Decision : 02-04-1997

Acts Referred:

Central Sales Tax Act, 1956 — Section 3, 9
Tamil Nadu General Sales Tax Act, 1959 — Section 38

Citation : (1997) 04 MAD CK 0098

Hon'ble Judges : N.V. Balasubramanian, J; Abdul Hadi, J

Bench : Division Bench

Judgement

Abdul Hadi, J.—The only submission made by the learned counsel for the assessee in this tax case revision u/s 38, TNGST Act, 1959 read with section 9(2), CST Act, 1956 is regarding prescribed "C" forms which should be given by the selling dealer in order to avail concessional tax for the inter-State sale effected by him u/s 3 of the Central Sales Tax Act. One aspect of the said contention by the learned counsel for the petitioner is that the authorities below have wrongly negated the concessional tax in relation to three turnovers, one to the extent of Rs. 6,286.80, another to the extent of Rs. 10,280.50 and yet another to the extent of Rs. 47,998.30, on the ground that only duplicate C forms were produced in relation to those turnovers and not the originals themselves. According to him the duplicates themselves could be entertained in accordance with rule 10(2) of the Central Sales Tax (Tamil Nadu) Rules, 1957, as it excised in the assessment year in question, viz., 1980-81. But this contention has no merit. The said rule as it existed prior to the amendment dated February 26, 1987 (i.e., in relation to the said assessment year 1980-81) ran as follows :

"A registered dealer who claims to have made a sale to another registered dealer shall in respect of such claim, attach to his return in form 1 the portion marked "original" of the declaration received by him from the purchasing dealer. The assessing authority may, in its discretion, also direct the selling dealer to produce for inspection the portion of the declaration marked "duplicate"."

2. This rule did not provide that the assessee could produce the original or the duplicate alternatively. In the first part of rule 10(2), what is stated is, the original shall be produced. However, in the next part it is added that the assessing authority right in its discretion also direct the selling dealer to produce the inspection the portion of the declaration marked duplicate. In other words, the duplicate cannot be produced in lieu of the original. When the original is produced it is left to the assessing authority to direct in its discretion the selling dealer to produce the declaration marked duplicate also.

3. Learned counsel also submits that only because the original was lost the duplicate was produced. But it does not appear from any of the records before us that such a contention was taken at any time. Further the abovesaid rule also did not provide for production of duplicate when the original was lost.

4. No doubt the rule came to be substituted by S.R.O. A-61/87 dated February 26, 1987 as already indicated. In the substituted rule only it is provided that the dealer shall produce the original, "or" duplicate, "where the original has been lost". In other words, only in the present rule there is provision for production of duplicate alternatively and that too where the original has been lost. Any way the present rule certainly is not applicable to the present case which related to the assessment year 1980-81. Therefore, the abovesaid contention of the learned counsel for the petitioner on the above aspect has no merit.

5. Learned counsel for the petitioner also made another submission which also related to the production of "C" forms. Here the submission relates to a disputed turnover of Rs. 3,12,093.20. Here the "C" forms produced were rejected by the authorities below for want of reference to purchase order in the "C" forms furnished, and in view of the difference, regarding the value of the goods sold, between the "C" forms and the relevant invoices. In view of the fact that such a rejection is justified on the abovesaid ground, no question of law arises on this aspect also. Learned counsel for the petitioner himself also was not able to point out any acceptable explanation for such difference between "C" forms and the invoice. Learned counsel for the petitioner also fairly submitted that he is not pressing another disputed turnover amounting to Rs. 1,43,894.95.

6. In view of these reasons, there is no merit in this tax case revision and the same is dismissed. No costs.

7. Petition dismissed.