(1962) 01 MAD CK 0005

In the Madras High Court

M.S. Balakrishna Chetty APPELLANT

Vs

State of Madras RESPONDENT

Date of Decision : 15-01-1962

Acts Referred:
Madras General Sales Tax Act, 1939 — Section 12B

Citation : (1962) ILR (Mad) 1129 : (1962) 13 STC 398

Hon'ble Judges : Srinivasan, J;Jagadisan, J

Bench : Division Bench

Advocate : V. Venkataraman, for the Appellant; G. Ramanujam, for The Government Pleader, for the Respondent

Judgement

Jagadisan, J.—This is an application for the issue of a refund certificate in a tax revision case which has not yet been taken on file. The

revision petition is against the order of the Sales Tax Appellate Tribunal in T. A. No. 544 of 1960. In compliance with the provisions of the

Madras General Sales Tax Act, the petitioner has paid the court fee of Rs. 100. The memorandum of revision petition has been returned to the

petitioner to cure some defects and irregularities pointed out by the office in the presentation of the petition. At this stage the petitioner does not

desire to prosecute the matter further. The question for consideration now is whether he is entitled to obtain any certificate which would enable him

to obtain a refund of the court fee of Rs. 100 paid on the memorandum of revision petition.

2. Section I2-B of the Madras General Sales Tax Act provides that every revision petition to the High Court should be in the prescribed form and

verified in the prescribed manner. The prescribed form, Form No. 15, contains the following note : ""The petition should, if preferred by the assessee, be accompanied by a fee of Rs. 100.

3. The provisions of the Court-fees Act are obviously not applicable! There is no provision in the Sales Tax Act enabling the assessee to obtain a

refund of the fee paid. Nor is there a provision under the Sales Tax Act stating that any fee paid shall not be refunded. But it is possible to infer that

an assessee is bound to pay the prescribed fee only in a case where he intends to prosecute the matter seeking the revisional aid of this Court. It is

open to him to change his mind after presenting the revision petition and withdraw the petition before it is actually taken on file. This Court can in

the exercise of its inherent powers direct a refund of the fee, where the revision petition is sought to be withdrawn before it takes effect by being

taken on file and numbered. On the facts and circumstances of this case we are of opinion that the petitioner can be granted a certificate for refund

in respect of the court fee paid. We therefore grant the certificate as prayed for.