(1980) 11 MAD CK 0019

In the Madras High Court

Case No : T.C. (R.) No. 1246 of 1980

Muzamil Leathers APPELLANT

Vs

The State of Tamil Nadu RESPONDENT

Date of Decision : 21-11-1980

Acts Referred:

Central Sales Tax Act, 1956 — Section 14, 15
Tamil Nadu General Sales Tax Act, 1959 — Section 16

Citation : (1981) 48 STC 166

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

Bench : Division Bench

Advocate : C. Natarajan, for the Appellant;

Judgement

Ismail, C.J.—This is a petition to revise the order of the Tamil Nadu Sales Tax Appellate Tribunal, Madras-1, dated 18th July, 1980. The

assessees were originally assessed on the total and taxable turnover of Rs. 25.61.049 and Rs. 12,81,392 respectively. Subsequently the assessing

officer reopened the assessment u/s 16 of the Tamil Nadu General Sales Tax Act, 1959, observing :

On a further scrutiny of the records, it was found that the dealers had purchased raw hides and skins locally and sold the resultant tanned hides

both locally and outside the State. According to the Tamil Nadu General Sales Tax Act, the proportionate value of raw hides and skins purchased

locally, which have been tanned and sold outside the State and also held in closing stock at the end of the year has to be assessed to tax under

entry 7(a) of the Second Schedule to the Tamil Nadu General Sales Tax Act. This was omitted to be assessed to tax at the time of assessment.

This defect requires rectification and it was proposed to revise the assessment of the dealers for the year 1974-75.

2. By this revision a turnover of Rs. 6,85,014 was brought to tax at 3 per cent. The petitioners took up the matter in appeal contending that section

16 of the Act did not cover the case, but the appeal to the Appellate Assistant Commissioner failed. A further appeal to the Tribunal also was not

successful. Hence the present tax revision case.

3. Mr. Natarajan, the learned counsel for the petitioner, concedes that in this particular case the entire tanned hides and skins were sold in the

course of inter-State trade and commerce, and that consequently the sales turnover was not subjected to any tax under the Tamil Nadu General

Sales Tax Act, 1959. In such a set up the only question for consideration is whether the assessment of the purchase turnover of raw hides and

skins under entry 7(a) of the Second Schedule to the Act was legal or not. We have no doubt whatever that the said assessment is legal, and the

learned counsel for the petitioner himself concedes that the decision of this Court in Golden Woodroffe & Company (Madras) Private Limited v.

State of Tamil Nadu [1977] 40 S.T.C.130 relied on by the Tribunal itself supports the conclusion of the Tribunal. All that the learned counsel for

the petitioners sought to contend was that an earlier Bench decision had taken a different view in M. M. Anwaraulla AM. Ghouse and Company v.

State of Tamil Nadu [1971]28 S.T.C.610, which was not brought to the notice of the Bench which decided Gordon Woodroffe & Company

(Madras) Private Limited v. State of Tamil Nadu [1977]40 S.T.C.130. We have been taken through the decision in M. M. Anwaraulla AM.

Ghouse and Company v. State of Tamil Nadu [1971]28 S.T.C.610 and we are of the opinion that the decision does not in any way run counter to

the decision in Gordon Woodroffe & Company (Madras) Private Limited v. State of Tamil Nadu [1977]40 S.T.C.130. The learned Judges in that

case stated as follows :

We are also not satisfied that actually there was any discrimination resulting from the scheme of item 7(a) and (b) of the Second Schedule to the

local Act read with sections 14 and 15 of the Central Act. A. Hajee Abdul Shakoor and Company Vs. State of Madras, took the view that raw

hides and skins and dressed hides and skins are different commodities commercially and this view has been followed by this Court in more than one case. But even so, from the standpoint of declared goods, hides and skins, whether in a raw or dressed state, can suffer tax at only one stage.

While, therefore, the two commodities are distinct and different, viewed as declared goods and because of the restriction on the local legislature

forged by section 15 of the Central Act, it cannot be said that there is any discrimination such as inhibited by article 304(a).

4. We see nothing in the above observations of the Bench in M. M. Anwaraulla AM. Ghouse and Company v. State of Tamil Nadu [1971]28

S.T.C.610 which run counter to the decision of the Bench in Gordon Woodroffe & Company (Madras) Private Limited v. Stale of Tamil Nadu

[1977]40 S.T.C.130.. Consequently we see no error of law in the order of the Tribunal. Hence the tax revision case is dismissed.

5. Petition dismissed.

