**(1985) 08 MP CK 0035**

**In the Madhya Pradesh High Court**

**Case No :** Miscellaneous Civil Case No. 108 of 1982

N.C.D.C. Limited (Now Central Coal Fields Limited) APPELLANT

Vs

Commissioner of Sales Tax RESPONDENT

**Date of Decision :** 06-08-1985

**Acts Referred:**
Madhya Pradesh General Sales Tax Act, 1958 — Section 44(1)

**Citation :** (1985) 60 STC 209

**Hon'ble Judges :** K.K. Adhikari, J;J.S. Verma, J

**Bench :** Division Bench

**Advocate :** H.S. Shrivastawa, for the Appellant; M.V. Tamaskar, Additional Advocate-General, for the Respondent

## Judgement

J.S. Verma, J.—This order shall also dispose of Miscellaneous Civil Cases Nos. 109 of 1982, 110 of 1982, 111 of 1982, 112 of 1982, 113 of 1982 and 114 of 1982, in all of which the parties are the same.

2. The common question of law referred to this Court for its decision u/s 44(1) of the Madhya Pradesh General Sales Tax Act, 1958 at the instance of the dealer, is as under :

Whether in the facts and circumstances of the cases, the amounts collected separately on despatches of coal by road on account of coal mines welfare cess, stowing duty and rescue cess under the statutory provisions were part of the sale price and liable to sales tax ?

3. The above common question of law arises in respect of the same dealer M/s. National Coal Development Corporation Limited (now Central Coal Fields Limited, Jhigarda Colliery, Singrauli, District Sidhi) for different periods of assessment under the State Act as well as the Central Act, for which seven separate orders of assessment were passed. The question involved in all of them was the above, namely, inclusion of coal mines welfare cess, stowing duty and rescue cess levied and collected under the statutory provisions from the purchasers on despatches

of coal by road in the sale price of coal for the purpose of computing taxable turnover. The assessing authority included this amount in the sale price of coal. The first appeals of the dealer were dismissed and the second appeals to the Tribunal also failed. The dealer, therefore, applied to the Tribunal for reference u/s 44(1) of the Act to this Court in all the seven cases for decision of the above-quoted second questions of law. The Tribunal has accordingly made these seven references involving the above common question of law for the decision of this Court.

4. The point involved for decision in the above common question of law is concluded by a decision of this Court in Central Coalfields Ltd. v. Commissioner of Sales Tax, Madhya Pradesh [1981] 47 STC 143. It was held only in a similar situation that various States levied and collected from the purchasers formed part of the sale price of the goods sold and, therefore, this amount had to be included in the sale price for computation of the taxable turnover. The view taken by the Tribunal in the present case being the same is justified. These references should, therefore, be answered in favour of the Department.

5. Consequently, the references are answered in favour of the Department and against the dealer as under :

The amounts collected separately on despatches of coal by road on account of coal mines welfare cess, stowing duty and rescue cess under the statutory provisions were part of the sale price and liable to sales tax.

There shall be no order as to costs.

 