
(1976) 02 MAD CK 0037

In the Madras High Court

Case No : T.C. No's. 411, 412 and 414 of 1971

North Arcot District Co-Operative Sugar Mills Ltd. (Now
Ambur Co-Operative Sugar Mills Ltd.)

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 12-02-1976

Acts Referred:

Citation : (1977) 40 STC 430

Hon'ble Judges : V. Ramaswami, J;Sethuraman, J

Bench : Division Bench

Advocate : C. Natarajan, for the Appellant; Additional Government Pleader No. 1, for the Respondent

Final Decision : Dismissed

Judgement

V. Ramaswami, J.—Tax (Revision) Cases Nos. 411 and 412 of 1971 have been filed by the North Arcot District Co-operative Sugar Mills

Ltd., now renamed as Ambur Co-operative Sugar Mills Ltd., Vadapudupet, North Arcot District, in respect of the assessment years 1967-68 and

1968-69. The turnover in both these assessments related to a portion of the amount paid by the assessee to the cane-growers in respect of the

supply of sugarcane made by them. The broad pattern of the business as between the growers and the sugar mills as found by the Tribunal is as

follows :

2. Before each crushing season, the mills enter into contracts with cane-growing ryots in the locality for delivering the sugarcane that will be

cultivated and harvested in their fields. On the basis of this undertaking the mills also advance monies for the purchase of fertilisers and other

cultivation activities, which amount is ultimately deducted from the price payable

in respect of the sugarcane supplied by the ryots. The Sugarcane

Inspector appointed by the mills inspects the sugarcane field in order to ensure their proper growth and quality. Under the Sugarcane Control

Order, the Government of India fixes each year statutory minimum price that must be paid by the mills to the growers in each crushing season. The

agreement executed by the ryots provides that the mills had to pay after weighing and approval of the delivered canes, either the controlled price

or the price which was legally payable to them after deducting whatever advances that have been made. For the assessment years in question, the

Government of India fixed Rs. 73.70 per tonne as the minimum price payable under the Sugarcane Control Order. It appears that the cane-

growing ryots who supplied their canes to the various mills were demanding more than the amount fixed as the minimum price by the Government

of India and, ultimately, the assessee agreed to pay a sum of Rs. 110 per tonne, which was later on approved by the Registrar of Co-operative

Societies and the Government. The assessee contended in the assessment proceedings that the amount paid over and above Rs. 73.70 per tonne

fixed as the minimum price under the Sugarcane Control Order is in the nature of a subsidy and it is not a part of the price payable in respect of the

sugarcane supplied to them and that, therefore, that part of the amount could not be included in the turnover.

3. This contention was rejected by the assessing authorities and the Tribunal on the ground that the agreement to pay at the rate of Rs. 110 per

tonne irrespective of the minimum price of Rs. 73.70 fixed by the Government of India amounts to a novation in respect of the price payable and

that, therefore, that amount also is to be included in the taxable turnover. The learned counsel for the assessee in these cases contended that under

the original agreement he was liable to pay only that price which was fixed by the Government of India under the Sugarcane Control Order and

that, therefore, any amount paid over and above that amount fixed could not be considered to be a price in respect of the sugarcane supplied. He

also contended that no question of novation would arise after the contract has been performed and, in this case, when the cane-growers had

delivered the products to the mills and the mills had accepted the same, there was a complete performance of the contract itself though the liability

to pay the price may be outstanding. We are unable to agree with this contention of the learned counsel.

4. What was agreed before the crushing season under the agreement between the ryots and the mills was that the mills will have to pay either the

price fixed under the Sugarcane Control Order or that which is lawfully payable. The cane-growers were disputing the amount payable to them

contending that the price fixed by the Government of India was only the minimum price payable and there was no prohibition for the mills for

paying higher than that amount. Since there was a dispute, the parties amicably settled the matter by agreeing to pay and receive Rs. 110. This will

certainly, in the circumstances, amount to a novation so far as the price payable is concerned.

5. Merely because the ryots while disputing the price payable delivered the sugarcane produced by them would not be deemed to be a complete

satisfaction and in compliance of the original agreement itself. We are satisfied on the facts that the entire sum of Rs. 110 per tonne paid

represented the price payable for the sugarcane and no part of it was the subsidy and that, therefore, the disputed turnover was rightly included in

the turnover.

6. Accordingly, these tax revision cases fail and they are dismissed with costs. Counsel's fee Rs. 150 in each.

T.C. No. 414 of 1971

7. The facts in this case are almost identical except that the assessee is different.

8. For the reasons stated above, this tax revision case also fails and it is dismissed with costs. Counsel's fee Rs. 150.