(1981) 01 MAD CK 0015

In the Madras High Court

Case No : T.C. Revision Petition No''s. 862 and 863 of 1980

Packwell Industries (P.) Ltd. APPELLANT

Vs

The State of Tamil Nadu RESPONDENT

Date of Decision : 22-01-1981

Acts Referred:
Central Sales Tax Act, 1956 — Section 5(3)

Citation : (1982) 51 STC 329

Hon'ble Judges : M.M. Ismail, C.J;Sethuraman, J

Bench : Division Bench

Advocate : C. Natarajan, for the Appellant;

Judgement

Ismail, C.J.—These are tax revision cases against the common order of the Sales Tax Appellate Tribunal, Madras-1, dated 25th February

1980, made in T.A. Nos. 1696 and 1762 of 1978. The petitioners are manufacturers of packing materials. The disputed turnover related to the

sales of corrugated boxes, heavy duty containers, duplex boards and waxed cartons made by the petitioners to certain exporters of sea foods. The

petitioner claimed exemption in respect of sales turnover of these packing materials based on section 5(3) of the Central Sales Tax Act, 1956.

Section 5(3) of that Act reads as follows :

Section 5(3) Notwithstanding anything contained in sub-section (1), the last sale or purchase of any goods preceding the sale or purchase

occasioning the export of those goods out of the territory of India shall also be deemed to be in the course of such export, if such last sale or

purchase took place after, and was for the purpose of complying with, the agreement or order for or in relation to such export.

2. The petitioners will be entitled to the benefit of this exemption only if it is established that the last sale of containers made by them took place

after and was for the purpose of complying with the agreement or order for or in relation to such export of sea foods. In these cases the Tribunal

records the following findings :

The packing cases were not the subject-matters of the contracts for export. The commodity mentioned in the order placed by the foreign

importers and in the import purchase confirmation given by them and in the invoices raised by the exporters is ''Indian frozen shrimps''. The goods

referred to in section 5(3) are the goods contracted for export and cannot include the packing materials.

3. In view of this finding, the sale of packing materials effected by the petitioners herein cannot be said to have been made after and for the

purpose of complying with the agreement or order for or in relation to such export of Indian frozen shrimps. Hence, we cannot hold that the

Tribunal has committed any error of law so as to warrant interference by this Court. The tax revision cases fail and they are dismissed.

4. Petitions dismissed.