**(1980) 01 MAD CK 0014**

**In the Madras High Court**

**Case No :** Tax Case (Appeal) No. 258 of 1977

Rangoon Metal and Refining Company — APPELLANT

Vs

State of Tamil Nadu — RESPONDENT

**Date of Decision :** 03-01-1980

**Acts Referred:**

Tamil Nadu General Sales Tax Act, 1959 — Section 7A, 7A(1)

**Citation :** (1981) 47 STC 60

**Hon'ble Judges :** Sethuraman, J;N.V. Balasubramanian, J

**Bench :** Division Bench

**Advocate :** K. Hariharan, for P. Viswanathan, for the Appellant; P. Suryaprakasam, for Government Pleader, for the Respondent

## Judgement

Sethuraman, J.—This is an appeal from the order of the Board of Revenue dated 5th August, 1976, in a suo motu revision of the Appellate

Assistant Commissioner''s order. The assessee purchased scrap metal from hawkers and vendors. These purchases had not suffered tax at any

earlier stage. The scrap so purchased was used in the manufacture of ingots. The purchases amounted to Rs. 29,493.38. The assessing authority

subjected this turnover to tax u/s 7-A of the Tamil Nadu General Sales Tax Act. The Appellate Assistant Commissioner set aside the assessment

u/s 7-A and directed the assessing officer to dispose of the matter in accordance with the decision of this Court in M. K. Kandaswami v. State of

Tamil Nadu [1971]28S.T.C.227. The assessee contested another part of the order of the Appellate Assistant Commissioner in the appeal before

the Tribunal and the Tribunal allowed the appeal.

2. The order of the Appellate Assistant Commissioner in so far as it related to the assessment u/s 7-A was reviewed by the Board in the light of the

decision of the Supreme Court in The State of Tamil Nadu Vs. M.K. Kandaswami and Others, . The Board was of the view that the Appellate

Assistant Commissioner''s order to this extent had to be set aside and the order of the assessing authority has to be restored. After hearing the

assessee''s objections, the Board cancelled the order of the Appellate Assistant Commissioner to the extent that he deleted the assessment of the

turnover for Rs. 29,493.38 and restored the assessment to that extent. This order of the Board has now given rise to the present appeal.

3. Section 7-A, in so far as it is material for our case, runs as follows :

(1) Every dealer who in the course of this business purchases from a registered dealer or from any other person, any goods (the sale or purchase

of which is liable to tax under this Act) in circumstances in which no tax is payable u/s 3, 4 or 5, as the case may be, and either,

(a) consumes such goods in the manufacture of other goods for sale or otherwise; or

(b) ...........

(c) ...........

4. shall pay tax on the turnover relating to the purchase aforesaid at the rate mentioned in section 3, 4 or 5, as the case may be, whatever be the

quantum of such turnover in a year .....

5. The liability to tax under the provision would be attracted if the assessee consumed the goods purchased in the manufacture of other goods for

sale or otherwise. Therefore, the short point for consideration is, whether the assessee after purchasing the goods had consumed them in the

manufacture of other goods. The learned counsel for the assessee submitted that the scrap was melted and turned into ingots only for the purpose

of removing the impurities contained in the scrap and that, in such a case, the ingots continued to remain the same as the scrap minus the impurity.

It was, therefore, submitted that it is not a case of manufacture of ""other goods"" contemplated by section 7-A. We are unable to agree. Unless the

scrap retained its identity, it could not be stated that it was not consumed in the manufacture of other goods. Ingots would be ""other goods"" as

scrap and ingots are not the same. Anyone going into the market and asking for scrap will not be given ingot and vice versa. Further, the process

employed by the assessee by putting the steel scrap into fire and making ingots out of them is a process of manufacture and, therefore, there is

consumption of steel scrap and manufacture of the same into goods. This is clearly a case falling within section 7-A(1).

6. The learned counsel for the assessee relied on a decision of the Kerala High Court in A. B. Ismail v. State of Kerala [1978]42S.T.C.217. In

that case, the question before the High Court was whether meat exposed for sale in the market after cutting or slaughtering goats or sheep cannot

be said to have been manufactured after consuming the goat or sheep. The High Court held that there was no consumption resulting in the

manufacture of other goods within the meaning of section 5A of the Kerala General Sales Tax Act, 1963. The learned Judges at page 220 have

observed that the exposed for sale is still of goat or sheep and they have pointed out the distinction between meat on hoof and meat or dressed

meat. For our present purpose, it is unnecessary to express any opinion on the correctness or otherwise of treating meat as equivalent to goats or

sheep. It is enough for our present purpose to point out that the commodity with which we are concerned is wholly different and so it is not

possible to apply the said decision here.

7. The result is, the appeal fails and is dismissed with costs. Counsel''s fee Rs. 250.

8. Appeal dismissed.

 