(2012) 09 MAD CK 0208

In the Madras High Court

Case No : Tax Case (Revision) No. 1627 of 2008

Selva Maligai APPELLANT

Vs

State of Tamil Nadu RESPONDENT

Date of Decision : 20-09-2012

Acts Referred:
Tamil Nadu General Sales Tax Act, 1959 — Section 7A

Citation : (2013) 63 VST 158

Hon'ble Judges : K. Ravichandrabaabu, J;Chitra Venkataraman, J

Bench : Division Bench

Advocate : P. Rajkumar, for the Appellant; Manoharan Sundaram, Government Advocate, for the Respondent

Judgement

Chitra Venkataraman, J.—This tax case (revision), filed by the assessee as against the order of the Tamil Nadu Sales Tax Appellate Tribunal for the assessment year 1996-97, was admitted by this court on the following substantial questions of law:

(1) Whether, in the facts and circumstances of the case, the Appellate Tribunal was right in sustaining the ad hoc additions made in the assessment without any reference to suppression or omission of sales or purchase turnover?

(2) Whether the Appellate Tribunal was right in holding that the purchase turnover of old gold jewels was not liable to tax at the last purchase point under entry 3 of Part A of the First Schedule to the Tamil Nadu General Sales Tax Act?

(3) Whether the Appellate Tribunal was correct in holding that old jewellery purchased and used in the manufacture of new jewellery are liable for purchase tax u/s 7A of the Tamil Nadu General Sales Tax Act?

It is seen from Part A of the First Schedule to the Tamil Nadu General Sales Tax Act that the old and worn out or beaten jewellery and other articles made of gold or silver including palamorel silver was taxable at the point of last purchase in the State at one per cent. From July 17, 1996, worn out or beaten jewellery was taken to last purchase, taxable at two per cent in Part A of the First Schedule to the Tamil Nadu General Sales Tax Act. Gold and silver jewellery including articles thereof were brought in under entry 25 of Part B of the First Schedule, taxable at four per cent.

2. The Tribunal pointed out that as the assessee had purchased old jewellery and used the same in the manufacture of new jewellery, the purchase of old jewellery is liable to be taxed u/s 7A of the Tamil Nadu General Sales Tax Act. The assessing authority assessed the disputed turnover at four per cent. Going by the said fact, the Tribunal thus rejected the assessee''s plea, thereby confirmed the assessment. Aggrieved by the same, the present tax case (revision) has bean filed.

3. As far as question Nos. 2 and 3 are concerned, going by the fact available and the finding of the Tribunal, we do not have any hesitation in rejecting the revision. It is seen from the order an ad hoc addition of Rs. 17,000 was made to the assessment on the ground of the non-maintaining of separate stock account on purchase of old jewellery and the new jewellery manufactured. The Tribunal pointed out that the assessee had not maintained any separate stock account for new and old gold jewellery, the bought notes maintained by them also did not contain correct and complete address of the sellers and hence, the bought notes were not verifiable. In the circumstances, addition was made. Even though the assessee submitted that ad hoc addition was not called for, considering the defects pointed out, the Tribunal confirmed the assessment. Being pure question of fact, we do not find any justifiable ground to interfere with the order of the Tribunal. Accordingly, the tax case (revision) stands dismissed. No costs.