(1967) 07 MAD CK 0008

In the Madras High Court

Case No : Tax Case No. 323 of 1964 (Revision No. 227)

Shansshia Oil Mills APPELLANT

Vs

The State of Madras RESPONDENT

Date of Decision : 10-07-1967

Acts Referred:

Central Sales Tax Act, 1956 — Section 8

Citation : (1967) 80 LW 551 : (1967) 20 STC 481

Hon'ble Judges : Veeraswami, J;Ramaprasada Rao, J

Bench : Division Bench

Advocate : A. Devanathan, for the Appellant; Special Government Pleader (C.T.), for the Respondent

Final Decision : Allowed

Judgement

Veeraswami, J.—Only a single item of turnover among others was in dispute right through and that related to an inter-State transaction. The

question was whether it was covered by a declaration in Form C with full particulars, S. 61 .

2. It is admitted that the declaration in C Form was lost in transit and that in spite of time given by the assessing authority, the assessee could not

produce it before the assessment was completed. What appears to have been done, however, is that he obtained a photostat copy of the

counterfoil of the declaration in Form C issued by the purchasing dealer and produced the same before the Appellate Assistant Commissioner. He

disposed of the question by observing that it was only a copy of the counterfoil and not even an authenticated copy of the foil and that there was no

provision to accept the C Form at that stage. The Tribunal practically shared this view and said that the declaration in Form C should have been filed within the prescribed time with full particulars. Following a recent judgment of the Supreme Court, this Court held in T. C. Nos. 8 and 9 of

1964 (Tirukoilur Oil Mills Ltd. and Anr. v. The State of Madras) that the time factor .in filing the C Forms .should be understood not in the sense

of a strict limitation for the purpose, but it would be necessary to file such forms within a reasonable time. If the C Forms were not filed along with

the monthly returns but produced before the assessment order was made, that was considered to be within a reasonable time. But no line was

drawn for the purpose. There may be circumstances which may well justify the view that although the C Forms were filed only before the

Appellate Assistant Commissioner, nevertheless, it was within a reasonable time. This is a case where even the revenue does not appear to dispute

that the C Form issued by the out-of-State purchasing dealer was lost in transit by the bank through whom the documents were negotiated. If the

delay in getting a duplicate form is explained or if a counterfoil of the C Form is produced, either in the form of its original or of a photostat copy

which is as authentic, the Appellate Assistant Commissioner may consider whether it is not filed within a reasonable time. He and the Tribunal were

in error in approaching the question from the standpoint of strict limitation in filing these forms along with the returns. In view of this error, we are

disposed to allow this petition.

3. The petition is allowed. The Tribunal will restore the appeal on its file and dispose it of afresh after receiving the photostat copy of the counterfoil

and considering on its merits whether the assessee is entitled to the benefit of Section 8(4) of the Central Sales Tax Act, 1956. No costs.