

**(1969) 04 MAD CK 0028**

**In the Madras High Court**

**Case No :** Writ Petition No"s. 2787 to 2790 and 2988 to 2991 of 1966 and T.C. No"s. 102 to 104, 194 and 195 of 1967

Spencer and Co.

APPELLANT

Vs

The Joint Commercial Tax Officer

RESPONDENT

**Date of Decision :** 10-04-1969

**Acts Referred:**

Constitution of India, 1950 — Article 226, 301, 302, 303, 304

**Citation :** (1970) ILR (Mad) 486 : (1969) 24 STC 161

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

**Bench :** Division Bench

**Advocate :** K. Srinivasan, D.S. Meenakshisundaram and K.C. Rajappa, in W.P. Nos. 2787 to 2790 of 1966 and T.C. Nos. 102 to 104, 194 and 195 of 1967 and N.R. Chandran, in W.P. Nos. 2988 to 2991 of 1966, for the Appellant; S. Mohan, Assistant Government Pleader, for the Respondent

## Judgement

Ramaprasada Rao, J.—W. Ps Nos. 2787 to 2790 of 1966.—The petitioners Messrs Spencer and Company, who are dealers in oilman goods, are wholesalers in liquors, steel almirahs, air-conditioners, etc. For the assessment years 1961-62 to 1964-65 the petitioners' total taxable turnover was determined and they were assessed. As against the said original assessment orders, appeals have been preferred by the petitioners and those appeals being unsuccessful, they preferred appeals to the Sales Tax Appellate Tribunal, Madras, and the said appeals are pending before the Tribunal. It was subsequently discovered that in reckoning the taxable turnover for the aforesaid assessment years, the turnover relating to the sales of foreign liquor was not properly determined and to that extent there was an escapement of assessment. In those circumstances, the assessing officer, the respondent herein, issued the impugned notices proposing to redetermine the taxable turnover of the petitioners for the assessment years in question. Opportunity was given to the petitioners to submit their objections. But the petitioners, without filing any objection thereto, have filed these writ petitions praying for the issue of writs of prohibition prohibiting the respondent from

reassessing in pursuance of his notice dated 29th November, 1966, proposing (1) to reassess the turnover relating to foreign liquor withdrawing the exemption and proposing to reassess at the general rate u/s 3 of the Madras General Sales Tax Act, and (2) proposing to include in the taxable turnover gallonage fee and 50 per cent, tax collected under the Madras Prohibition Act, 1937.

2. According to the petitioners, the impugned notices purporting to reassess the taxable turnover already determined so as to include sale of foreign liquor which has escaped assessment, collections of 50 per cent. tax under the Madras Prohibition Act and gallonage fee, are illegal and without jurisdiction. The petitioners' contention is that the proposed tax on foreign liquor is violative of the principles contained in Article 301 and Article 304 of the Constitution of India. Their case is that the notices seeking to tax foreign liquor imported into India or imported into this State from other States in the course of inter-State trade, render the charging Section 3(1) of the Madras General Sales Tax Act, under which the levy of 2 per cent. is imposed, unconstitutional. They would also say that the inclusion of the gallonage fee collected by the State Government under the Madras Liquor (Licence and Permit) Rules, 1960, is a fee by itself and cannot be deemed to be part of the price of the liquor sold and therefore it was submitted that the gallonage fee cannot be added on to the sales turnover of the foreign liquor so as to make it liable to tax u/s 3(1) of the Madras General Sales Tax Act, 1959. One other contention of the petitioners is that the inclusion of 50 per cent. of tax collected under the Madras Prohibition Act, 1937, during the period in question, as if it is assessable turnover under the Madras General Sales Tax Act, is again illegal. They would state that by no process of reasoning can such collections be called turnover liable to tax. If Section 3(1) is construed in such a manner so as to include the 50 per cent. of tax collections also, the charging section would again be unconstitutional and outside the ambit of entry 54 of List II, State List, Seventh Schedule to the Constitution. It is in these circumstances that the petitioners pray for the issue of writs of prohibition prohibiting the respondent from reassessing in pursuance of the notices issued by him and for other consequential reliefs.

3. W.Ps. Nos. 2988 to 2991 of 1966.-These are petitions in which the petitioner is seeking for the issue of writs of certiorari to quash the order of the Appellate Assistant Commissioner (C.T.) III, confirming the order of assessments dated 20th September, 1966, bringing to assessment the turnover relating to foreign liquor and charging the same u/s 3(1) of the Madras General Sales Tax Act. The petitioner in these writ petitions is a wine merchant selling foreign liquor and Indian liquor to permit holders. He is also a retail dealer. He has been paying 50 per cent. duty on the sales as prescribed u/s 21-A of the Madras Prohibition Act. For the assessment years 1961-62 to 1964-65, he was called upon to pay a further sales tax under the Madras General Sales Tax Act at 2 per cent. on the turnover relating to the sale of foreign liquor. This was objected to by the petitioner. He claimed also exemption under the Third Schedule to the Madras General Sales Tax Act. But the respondent overruled his objections and assessed

the petitioner accordingly. As against the order of assessment by the assessing authority, appeals were preferred but the petitioner was not successful. Stating that no purpose would be served by filing further appeals to the Sales Tax Appellate Tribunal, since the Tribunal has already expressed the view that such tax was exigible, the petitioner has come up to this Court and is seeking a rule under Article 226 of the Constitution.

4. According to the petitioner, the order of the respondent is vitiated in that he has been called upon to pay sales tax of 2 per cent. under the Madras General Sales Tax Act even though he has already suffered a tax of 50 per cent. duty u/s 21-A of the Madras Prohibition Act. He would state that Section 21-A of the Madras Prohibition Act and Section 3(1) of the Madras General Sales Tax Act are mutually exclusive. His further contention is that where a special levy of sales tax u/s 21-A of the Madras Prohibition Act is made, the general levy u/s 3(1) of the Madras General Sales Tax Act is excluded. He would contend that this would result in double taxation and therefore seeks for the issue of a rule as prayed for.

5. T.Cs. Nos. 102 to 104 of 1967.-The assessment for 1959-60 of Messrs Shaw Wallace and Company Limited was revised by the Joint Commercial Tax Officer, Esplanade-I, to include the sales turnover of foreign liquor amounting to Rs. 1,10,089.42 which was omitted to be included in the taxable turnover already determined. The subsequent assessments for 1962-63 and 1963-64 were made by him including the sales turnover of foreign liquor of Rs. 98,934.12 and Rs. 1,05,537.94 respectively and he levied tax at 2 per cent. u/s 3(1) of the Madras General Sales Tax Act, 1959. Aggrieved against the inclusion of the turnovers for the above three assessment years, the petitioners preferred appeals before the Appellate Assistant Commissioner (C.T.) contending among other things that the liquor already suffered tax at 50 per cent. u/s 21-A of the Madras Prohibition Act, 1937, and that therefore the further levy of tax at 2 per cent. under the Madras General Sales Tax Act, 1959, was illegal. In so far as the question of sales tax on the sales of foreign liquor is concerned, the Appellate Assistant Commissioner upheld the levy. Aggrieved by these orders, the petitioners preferred further appeals to the Madras Sales Tax Appellate Tribunal challenging the validity of the assessments made on the sales of foreign liquor. The turnovers in dispute before the Tribunal were Rs. 1,10,089.42, Rs. 84,825.93 and Rs. 79,886.76 for the assessment years 1959-60, 1962-63 and 1963-64 respectively. The Tribunal in and by a common order dated 18th September, 1966, dismissed the appeals confirming the levy of sales tax on the turnover relating to sales of foreign liquor. As against this, the petitioners have filed the above tax cases.

6. T.Cs. Nos. 194 and 195 of 1967.-Messrs Shaw Wallace and Company Limited were assessed on a taxable turnover of Rs. 1,60,69,996.97 as against Rs. 1,48,51,847.25 reported by them for the assessment year 1959-60. For the year 1960-61 the petitioners were assessed on a taxable turnover of Rs. 1,27,28,184.45 as against the turnover of Rs. 1,24,93,570.20 reported by them. On appeal, the Appellate Assistant Commissioner confirmed the assessment for

the year 1959-60. In respect of the assessment year 1960-61 relief was granted on a sum of Rs. 3,646.93 being the deduction towards filling of sulphuric acid in containers disallowed by the assessing authority and confirmed the assessments in other respects.

7. As against this the petitioners preferred further appeals to the Madras Sales Tax Appellate Tribunal, questioning the levy of tax at the rate of 3 per cent. on the turnover relating to the sales of sprayers amounting to Rs. 3,64,692.94 for the assessment year 1959-60. For the assessment year 1960-61 the petitioners questioned the levy of tax (i) at the rate of 3 per cent. on a turnover of Rs. 6,68,478.95 representing sales of sprayers and (ii) at 2 per cent. on a turnover of Rs. 1,74,397.92 representing the sales of foreign liquor.

8. The Tribunal in and by an order dated 16th September, 1966, confirmed the levy of tax on foreign liquor and also the tax at 3 percent. on the sales of sprayers on the ground that the saving clause in item 23 of the First Schedule to the Madras General Sales Tax Act referred only to articles used for agricultural purposes made of iron and steel and not to brass sprayers. As against this, the above two tax cases have been filed.

9. Mr. K. Srkiivasan who addressed on behalf of the writ petitioners and the petitioners in the tax cases, did not raise the question whether the imposition of gallonage fee by itself is unauthorised, but made common submissions relating to the cases which were dealt with as a batch and heard together and we shall therefore proceed to consider the said contentions.

10. The argument of Mr. K. Srinivasan is fourfold. Firstly, as the Madras Prohibition Act, 1937, imposes, u/s 21-A, a sales tax on the sale of foreign liquor, no tax is exigible once over on such sales u/s 3 of the Madras General Sales Tax Act. Secondly, it is contended that the levy of sales tax on foreign liquor is constitutionally unsustainable since it offends Articles 301 and 304 of the Constitution. Thirdly, the addition of sales tax payable under the Madras Prohibition Act to the taxable turnover under the Madras General Sales Tax Act for purposes of attracting the levy of sales tax on the totality of such a turnover is illegal, as it would amount to a tax on tax, which is not permissible in law. Fourthly, the inclusion of gallonage fee in the taxable turnover is also questioned on the ground that it is not includible in law. The imposition of gallonage fee as a fee under the Madras Prohibition Act and Rules made thereunder has not been questioned. The learned Assistant Government Pleader appearing for the revenue, would sustain the levy of sales tax under the Madras General Sales Tax Act as Section 6 thereto enables it. According to him, neither Article 301 nor Article 304 can ever operate as a bar for the impost. The addition of the tax under the Madras Prohibition Act is legal because the amount so collected is used by the dealer before payment to the State and therefore the levy is regular. The gallonage fee being a fee in addition to the various fees prescribed by the Act and Rules made under the Madras Prohibition Act does form part of the consideration for the sale of the liquor and hence unquestionable.

11. We may at once dispose of the constitutional question raised. Mr. K. Srinivasan contends that Article 301 being reflective of the badge of free inter-State and intra-State trade, no fetter whatsoever can be imposed thereon. It is not to be forgotten that Article 301 in essence guarantees freedom of trade within the geographical limits of our country and it is intended to avoid any barriers in the free flow of such trade. The article which is general in scope, states the nature of the freedom of trade and commerce in the territory of India. The articles following it prescribe the limitation to this freedom. We shall consider such of those as are necessary for the case. Article 302 contemplates the imposition of restriction by Parliament in any part of the country in the public interest. Article 303 is indeed a proviso to Article 302; it provides that such restrictive laws ought to be non-discriminatory in character. Article 304 gives to the States a certain amount of discretion to regulate inter-State trade or commerce, under exceptional circumstances. No doubt this is subject to Central control. A State Legislature may impose on goods imported from other States any tax, if similar goods produced in that State also are taxed in a like manner. A State Legislature is also authorised to impose reasonable restrictions on the freedom of trade and commerce with or within that State as may be required in the public interest. This is Article 304. The only question in the instant case is whether foreign liquor is taxable under the Madras General Sales Tax Act as any other goods. We are called upon to consider whether by such an imposition, the freedom of trade envisaged in Article 301 is in any way infringed. It is to be noted that foreign liquor which is imported from abroad or from other States, does not suffer an excise duty under the Madras Prohibition Act or any other law. It is not disputed that such liquor is not manufactured in the State, with the result the inhibition in Article 304 need not be taken note of. No question of discrimination arises because there are no two similar products for consideration. The sales tax on foreign liquor is obviously compensatory in nature and might also be characterised as regulatory in the interest of trade. It is certainly not discriminatory, as the facts disclose. Such being the scope of the imposition of the levy of tax on foreign liquor under the Madras General Sales Tax Act neither Article 301 or 304 is infringed, nor can they be called into aid to canvass the legality and propriety of the levy. As pointed out by the Supreme Court in *State of Madhya Pradesh v. Bhailal Bhai* [1964] 15 S.T.C. 450 :

The tax could still be good if even though it contravened the provisions of Article 301 it came within the saving provisions of Article 304(a) of the Constitution. That article provides in its clause (a) that notwithstanding anything in Article 301 or Article 303 the Legislature of a State may by law impose on goods imported from other States any tax to which similar goods manufactured or produced in that State are subject so however as not to discriminate between goods so imported and goods so manufactured or produced.

12. In the instant case, for a greater reason, the power of the State Legislature to impose, on goods imported from abroad or other States, sales tax is available without any fetter thereon because it is not disputed that no similar goods are

manufactured or produced in the State and consequently the tax will not savour of any discrimination. Strong reliance was placed on *Kalyani Stores Vs. The State of Orissa and Others*, . That was a case where a countervailing duty was sought to be imposed on imported liquor, when no such liquor was manufactured inside the State. Said the Supreme Court in that case :

...the expression "countervailing duties" in entry 51, List II, of the Seventh Schedule of the Constitution meant a duty levied with a view to equalise the burden on alcoholic liquors imported from outside the State and the burden placed by excise duties on alcoholic liquors manufactured or produced in the State. It meant that countervailing duties could only be levied if similar goods were actually produced or manufactured in the State on which excise duties were being levied.

13. The case pivoted on the interpretation of the words "countervailing duties" in their etymological sense as meaning "to counter-balance" ; "to avail against something with equal force". These considerations do not arise when dealing with the competency of a State to levy sales tax on goods within the State. Reference to the case popularly known as the *Atiabari case* (*Atiabari Tea Co. Ltd. v. State of Assam* AIR 1961 S.C. 232) is of no avail to the petitioners. In that case the ratio principally was that no interdict on movement of goods freely in the territory of India can be imposed and if the transport or the movement of the goods is taxed solely on the basis that the goods are carried or transported that would directly affect the freedom of trade as contemplated in Article 301. This is not the case here. We are unable to hold that by levying a sales tax on foreign liquor imported from abroad or from other States, against the incidence of sale which has not obviously suffered any duty in the State as excise duty and the like of which is not manufactured in the State, any constitutional limitation has been impinged. The argument that the tax on foreign liquor offends Article 301 or 304 therefore fails.

14. That foreign liquor imported into the State is taxable has been noticed by this Court in *Phipson and Co. (P.) Ltd. v. Government of Madras* [1964] 15 S.T.C. 740. *Srinivasan, J.*, speaking for the Bench observed :

Entry 3 in the Third Schedule to the Madras General Sales Tax Act, 1959, which exempts liquor, does not cover foreign liquor imported into India inasmuch as foreign liquor is not subject to any duty of excise. Therefore foreign liquor as such is not exempted u/s 8 of the Madras General Sales Tax Act, 1959. There is no provision either in the Madras Prohibition Act, 1937, or elsewhere which exempts sales of foreign liquor from the tax payable under the general charging Section 3 of the Madras General Sales Tax Act, 1959, and it is therefore taxable at the rate of 2 per cent, under that Section.

15. This decision is binding as much on the petitioners as on us.

16. We shall now take up the first contention. Mr. K. Srinivasan suggests that there is an element of double taxation when foreign liquor is subject to sales tax

u/s 21-A of the Madras Prohibition Act and also u/s 3 of the Madras General Sales Tax Act. The argument is indeed attractive. The learned Assistant Government Pleader rightly referred to Section 6 of the Madras General Sales Tax Act which provides :

The provisions of this Act relating to taxation of successive sales or purchases inside the State, only at a single point or at one or more points shall apply only to sales or purchases inside the State and the tax under this Act shall be levied in addition to any tax levied under the Central Sales Tax Act, 1956, or any other law for the time being in force.

17. The Madras Prohibition Act is certainly a law which is in force and running parallel to the Madras General Sales Tax Act. Section 21-A, no doubt, taxes foreign liquor. It specifies the instances which attract sales tax and which the seller is obliged to collect from the purchaser and pay over the same to the Government. Such sales tax is on the price of the liquor sold. A dichotomy as it were is reflected in the section itself between the price of the liquor and the sales tax payable on such price as prescribed. Thus therefore, a specific law enables the imposition of sales tax on foreign liquor as denned in that section. Section 6 of the Madras General Sales Tax Act concurrently authorises an additional levy of sales tax under that Act, notwithstanding a similar levy under any other law. This provides a direct answer to the first contention of the petitioners, which has necessarily to fail.

18. The third contention of Mr. K. Srinivasan is however sound. His case is that it is not legal to include in the taxable turnover under the Madras General Sales Tax Act, the amount representing the "sales tax" collected as such u/s 21-A of the Madras Prohibition Act. We have analysed the impact of Section 21-A of the Madras Prohibition Act earlier. It speaks of a levy of sales tax on the price of the liquor sold. Therefore the distinctive characteristics of tax and price are maintained by the said section. If therefore the amount collected as sales tax u/s 21-A of the Madras Prohibition Act retains its distinct individuality as a tax, then it cannot be deemed to be the consideration paid for the liquor by the purchaser at the time of sale. As pointed out by us in *Srinivasa Timber Depot v. Deputy Commercial Tax Officer* [1969] 23 S.T.C. 158. what could legitimately be brought to tax under the Act is the aggregation of the consideration for the transfer of property in the goods. The sales tax collected by the seller u/s 21-A of the Madras Prohibition Act is an involuntary collection made by him and has not the insignia of price or consideration for the sale of goods. Even the text of the Section that sales tax is payable on the price of liquor brings out clearly this aspect. The learned Assistant Government Pleader relied upon *George Oakes (P.) Ltd. v. State of Madras* [1962] 13 S.T.C. 98. to contend contra. In that case this Court was interpreting a specific section introduced by a purposeful amendment in the Madras General Sales Tax Act, 1939. Section 2 of the Madras General Sales Tax (Definition of Turnover and Validation of Assessments) Act, 1954, expressly provided that in the case of sales made by a dealer before the notified

date, amounts collected by him by way of tax under the Madras General Sales Tax Act, 1939, shall be deemed to have formed part of the turnover. Interpreting this section, the Supreme Court upheld the fiction created by the Legislature and observed that the tax should be calculated on the total amounts received by the dealer including the tax. This has no application to the instant case at all. The text of Section 21-A of the Madras Prohibition Act is a pointer and indeed provides a complete answer to the objection by the State. The section itself mentions "price" and the tax payable thereon. Thus understood, it is not open to the State to include the sales tax collected by the seller under a statutory obligation, namely, Section 21-A of the Madras Prohibition Act, in the assessable turnover of the said dealer while assessing him under the Madras General Sales Tax Act. No doubt, as already held by us, the State has the right to collect the sales tax under the Madras Prohibition Act as also such tax u/s 3 of the Madras General Sales Tax Act in view of Section 6 of the latter Act. But this enabling provision cannot be taken advantage of for all purposes by the revenue to bring to tax, even sales tax for purposes of exigibility to tax under the Madras General Sales Tax Act. We therefore uphold the contention of the petitioners that the impugned order inasmuch as it includes the tax paid by the petitioners under the Madras Prohibition Act as if it is assessable turnover under the Madras General Sales Tax Act is fallible and ought to be therefore held as a consequence resulting from the exercise of jurisdiction when there is none and the proposal of the respondent to include the aforesaid amount as if it is assessable to sales tax under the Madras General Sales Tax Act is not sustainable, and if already included and taxed the order to that extent cannot stand.

19. The fourth contention relates to the inclusion of gallonage fee paid by the petitioners in the taxable turnover under the Madras General Sales Tax Act. The petitioners are not disputing in these writ petitions the competency, power and the right of the State to collect such gallonage fee which is expressly provided for and referred to in the Madras Liquor (Licence and Permit) Rules, 1960, made u/s 54 of the Madras Prohibition Act, 1937. Clause (XI) of Rule 22 noticed under the above Rules, is one of the conditions applicable to licences issued under the said Rules. It provides that in addition to the annual fixed fee, or other fee if any, prescribed for licences issued under these Rules a gallonage fee calculated at the rates mentioned therein or at such other rates as may be notified by Government for time to time, shall be levied on liquor. "Liquor" for purposes of those Rules means foreign liquor and Indian made spirits. As already stated, the petitioners are not challenging the levy, but their only case is that the fee so collected in addition to the licence fee cannot be deemed to be forming part of the price of the goods sold by them and therefore it is not taxable turnover. We are unable to agree. The payment of gallonage fee appears to be one of the conditions precedent for a person to hold a licence and therefore it is an expense which he has necessarily to incur as a licensee under the Madras Liquor (Licence and Permit) Rules. We can therefore safely conclude that such expenses which are necessary for the trade were incurred by them before the sale of liquor to any

person concerned. It is not as if this gallonage fee is a tax collected by them for and on behalf of the State for being paid over to the State. It forms part of capital expenditure and has to be incurred by them and it would necessarily be added on to the cost of the liquor sold by the petitioners from time to time. No attempt has been made by the petitioners to establish before us or at any time before the revenue, that the gallonage fee is an expense incurred by them independently and without reference to the cost of the liquor. In fact, such a contention ordinarily cannot be raised by a merchant. Rightly therefore the revenue contended that the gallonage fee is like customs duty and has to be therefore telescoped into the assessable turnover. We are unable to agree with the contention of Mr. Srinivasan that such gallonage fee sought to be included in the assessable turnover has to be excluded for purposes of assessment.

20. In T.C. No. 195 of 1967, an additional question has been raised. This relates to the levy of sales tax on sprayers. The contention of the petitioners in this case is that the Tribunal was wrong in having included the cost of sprayers in the assessable turnover as they are being used for the purpose of spraying insecticides on agricultural crops and as such they should be classified as articles used for agricultural purposes coming within the purview of the saving clause in Item 23 of the First Schedule to the Madras General Sales Tax Act. The revenue contending contra would say that sprayers fall within the category of "machinery" occurring in the said item and the expression "excluding articles used for agricultural purposes" occurring in Item 23 will qualify only the words "iron and steel (other than those mentioned under declared goods) and all articles made therefrom" and not the rest in Item 23. The contention of the department was upheld by the Tribunal.

21. Item 23 of the First Schedule to the Madras General Sales Tax Act, 1959, as it originally stood runs as follows:

23. Machinery (other than those At the point of Three per cent. falling under Item 41), including any first sale article, implement, contrivance, appa- in the State. tus or part of such machinery made of any metal (not being a typewriter, tabulating machine, calculating machine and duplicating machine and parts thereof), hardware, iron and steel (other than those mentioned under declared goods) and all articles made therefrom (excluding articles used for agricultural purposes and all items specifically provided in the schedule).

22. By a curious reasoning the Tribunal held that articles, though used for agricultural purposes, if not made of iron and steel, are not exempt from tax. We do not find any justification for this strained interpretation. Item No. 23 of the First Schedule speaks of not only machinery but also refers to all articles made of any metal, hardware, iron and steel. But this serial number excludes those goods coming within Serial No. 41 and also those mentioned as declared goods. There is also a specific exclusion of articles used for agricultural purposes and all other items specifically provided for. Thus item No. 23 is general in scope and contemplates certain exceptions referred to therein and also to those covered by

particular items in the Schedule, which attract tax. The specific exception from exigibility to tax regarding articles used for agricultural purposes is unqualified and is obviously intended. The scheme of the Act also supports this view. The Legislature excludes from the assessable turnover, the proceeds of sale by a person of agricultural produce-see Section 2(r) of the Madras General Sales Tax Act. The view of the Tribunal that sprayers made of iron and steel only are exempt, though they are admittedly used for agricultural purposes, appears to be too narrow. The exclusion of articles used for agricultural purposes is knitted to the other items specifically provided in the Schedule. Both appear in the brackets "excluding articles used for agricultural purposes and all items specifically provided in the schedule".

23. If the interpretation of the Tribunal has to be accepted then the exclusion in the brackets as above even as regards other items specifically provided for in the Schedule, would only mean such of those items made of iron and steel. This would lead to a strange result and indeed unacceptable. We are therefore of the view that all articles made of any metal used for agricultural purposes are not within the purview of serial No. 23 of the First Schedule to the Madras General Sales Tax Act.

24. In the result, W.Ps. Nos. 2787 to 2790 of 1966 are dismissed with this specific observation that the assessing authority while revising the assessment will bear in mind that the tax paid by the petitioners in these cases u/s 21-A of the Madras Prohibition Act, 1937, shall not be included in the assessable turnover for purposes of exigibility to tax u/s 3(1) of the Madras General Sales Tax Act. There will be no order as to costs.

25. W.Ps. No. 2988 to 2991 of 1966 are dismissed, but the assessing officer shall reassess the dealer for the years in question bearing in mind the principles enunciated in this judgment. There will be no order as to costs.

26. T.Cs. Nos. 102 to 104 of 1967 are allowed in part and the assessing officer shall reassess the dealer for the years in question bearing in mind the principles enunciated in this judgment and in accordance with law. There will be no order as to costs.

27. T.Cs. Nos. 194 and 195 of 1967 are allowed in part. The assessing authority shall cause a revision of the assessment for the years in question following the principles laid down in this judgment. There will be no order as to costs.