(1976) 08 MAD CK 0030

In the Madras High Court

Case No : T.C. No''s. 445 and 467 of 1971 (Revisions No''s. 313 and 335 of 1971)

Standard Fire Works Industries APPELLANT

Vs

State of Tamil Nadu RESPONDENT

Date of Decision : 05-08-1976

Acts Referred:
Central Sales Tax Act, 1956 — Section 8

Citation : (1977) 75 STC 403

Hon'ble Judges : Sethuraman, J;Ismail, J

Bench : Division Bench

Advocate : S.V. Subramaniam, for Subbaraya Iyer, Sethuraman and Padmanabhan, for the Appellant; K.S. Bakthavathsalam, Additional Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Ismail, J.—These two tax revision cases preferred against the order of the Sales Tax Appellate Tribunal lie within a very narrow compass.

The only question for consideration is whether the ""hand grenades"" and ""bicat strips"" manufactured and supplied by the petitioners to the defence

department for being used in the training of the Army personnel come within the scope of the expression ""all arms including rifles, revolvers, pistols

and ammunition for the same"" occurring as entry 12 of the First Schedule to the Tamil Nadu General Sales Tax Act, 1959. Though the assessment

itself has been made under the Central Sales Tax Act, this question arises for the purpose of finding out whether the rate of tax under the State Act

was lower than the rate prescribed by Section 8(2A) of the Central Sales Tax Act or not. As we have already pointed out, the goods which are

the subject-matter of these revision cases are ""hand grenades"" and ""bicat strips"" sold by the petitioners to the Government of India, Civil

Armaments Division, to be used in the training of Army personnel. On the face of it, such objects will fall within the scope of the expression ""all

arms"" occurring in entry 12 extracted already. The learned counsel for the petitioners sought to put forward two contentions. One as an arm must

be a weapon of offence or defence; in the present case the two articles in question, being used only for training purposes, cannot be said to be a

weapon of offence or defence. We are unable to accept this argument. When an article is referred to in a statute by its generally known name and

not with reference to its use, then the question whether a particular article falls within the said description given in the statute has to be decided

without reference to the actual use to which the assessee puts it and even if the use is to enter into the calculation at all, it must be that use to which

it is normally put and not the special use to which the particular assessee puts it. Certainly, ""hand grenades"" and ""bicat strips"" can be used as

weapons of offence or defence. But the mere fact that in the present case they were used only for the purpose of training the Army personnel will

not in any way detract from their character as weapons of offence or defence.

2. The second argument advanced by the learned counsel is that the entry says ""all arms including rifles, revolvers, pistols"" and, in this case, the

hand grenades"" and ""bicat strips"" are neither rifles, revolvers nor pistols and, therefore, they will not come into the scope of entry 12. Here again,

we are unable to appreciate the argument. The entry having opened with the general expression ""all arms"" merely by way of illustration uses the

inclusive portion by reference to rifles, revolvers and pistols. Therefore, even if a particular article is not a rifle or revolver or pistol, yet if it falls

within the scope of arms, certainly it will come within the entry. For these reasons, we are of the opinion that the conclusion of the Tribunal is

correct and no error of law can be said to have been committed by the Tribunal in the present case. Accordingly, these tax revision cases are

dismissed. The respondent will be entitled to the costs of this reference, one set. Counsel''s fee Rs. 250.