(1991) 04 MAD CK 0011

In the Madras High Court

Case No : Tax Case No''s. 141 to 144 of 1991 (Revision No''s. 69 to 72 of 1991)

State of Tamil Nadu — APPELLANT

Vs

Arcot Cans — RESPONDENT

Date of Decision : 02-04-1991

Acts Referred:
Tamil Nadu General Sales Tax Act, 1959 — Section 3, 3(2), 4, 5, 7A

Citation : (1991) 04 MAD CK 0011

Hon'ble Judges : A.S. Anand, C.J;Raju, J

Bench : Division Bench

Judgement

Dr. A.S. Anand, C.J.—This judgment will dispose of T.C. (R) Nos. 141 to 144 of 1991 as they relate to different assessment years in

respect of the same assessee and involve identical questions of law and facts. It was by a common order in T.A. Nos. 226 to 229 of 1988

decided on August 24, 1989, that the Sales Tax Appellate Tribunal, Main Bench, Madras, accepted the appeals of the assessee and set aside the

orders of the authorities below.

2. The only questions that arise for consideration are whether tin sheets could be said to have been ""consumed"" in the process of manufacture of tin

containers and whether such purchases of tin sheets would attract purchase tax u/s 7-A of the Tamil Nadu General Sales Tax Act, 1959 ? Section

7-A of the Act provides that every dealer who in the course of his 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, and not being a

circumstance in which goods liable to tax under sub-section (2) of section 3 or section 4, were purchased at a point other than the taxable point specified in the First or the Second Schedule and, inter alia, consumes such goods in the manufacture of other goods for sale or otherwise, shall

pay tax on the turnover relating to the purchase aforesaid. The expression ""consumes"" unmistakably suggests that the commodity which is said to,

have been consumed loses its complete character, nature and identity in the manufacture of other goods, with a different and distinct character,

nature and identity. Prior to the amendment of section 7-A by the Amendment Act 78 of 1986, no tax could be levied on the goods ""used"" in the

manufacture of other goods. It was by the Amendment Act 78 of 1986 that the expression Causes"" was added in section 7-A so as to cover not

only what was ""consumed"" but also what was ""used"" in the manufacture of other goods for sale or other wise u/s 7-A. This amendment came into

force from January 1, 1987. The legislature, therefore, was conscious of the fact that prior to the amendment, the mere ""use"" of the goods in the

manufacture of other goods did not attract the provisions of section 7-A of the Act. It is only with effect from January 1, 1987 that even the ""use

of such goods in the manufacture of other goods for sale or otherwise has been made liable to the levy of purchase tax u/s 7-A of the Act.

3. In the instant cases, there is no dispute that the tin sheets were not ""consumed"" in the manufacture of tin containers, but were only ""used"". They

did not lose their character, nature or identity. The Tribunal found on facts that the identity of the goods remained unchanged and that the character

of the tin sheets was not destroyed or altered by their use in the manufacture of tin containers. It was also found on facts that ""the tin containers can

be again manipulated or fabricated into tin sheets"". Since the disputed assessment periods were prior to January 1, 1987, that is prior to the

amendment by the Amendment Act 78 of 1986, the Tribunal was perfectly justified in allowing the appeals and setting aside the orders of the

authorities below. The answer to the questions posed in the earlier part of this judgment, therefore, has to be in the negative. Consequently, these

tax revision cases fail and are dismissed.

4. Petitions dismissed.