(1991) 07 MAD CK 0085

In the Madras High Court

Case No : Tax Case No. 467 of 1982

State of Tamil Nadu APPELLANT

Vs

Arun Sankar Agencies RESPONDENT

Date of Decision : 17-07-1991

Acts Referred:

Tamil Nadu General Sales Tax Act, 1959 — Section 3(1)

Citation : (1992) 85 STC 545

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

Bench : Division Bench

Advocate : Mrs. Chitra Venkataraman, for the Appellant; R. Janakiraman, for the Respondent

Judgement

Dr. A.S. Anand, C.J.—The Revenue is in revision against the order of the Sales Tax Appellate Tribunal dated 22nd September, 1981. The controversy relates to the rate of tax on the sale turnover of tablets, stools, trays, etc., sold by the assessee to the match factories to the tune of Rs. 31,850. According to the assessee the rate of tax is at 4 per cent. The plea of the assessee was not accepted by the assessing authority or the Appellate Assistant Commissioner who held the rate of tax to be at 8 per cent treating the articles sold to fall under entry 121 of the First Schedule. The Tribunal, however, on second appeal by the assessee held that the tables, racks, trays etc., sold by the assessee to the match factories would not fall under entry 121 of the First Schedule and instead would be taxable at 4 per cent multipoint u/s 3(1) of the Tamil Nadu General Sales Tax Act, 1959.

2. Entry 121 of the First Schedule at the relevant time read as follows :

"Furniture of all kinds not specifically mentioned in this Schedule."

3. The expression "furniture of all kinds" is wide enough to cover every kind of furniture other than that specified in the Schedule. It is not possible to exclude such furniture which is "specially designed" for use in a particular factory, from

the ambit of entry 121. This entry would cover furniture of all kinds "used in homes, offices, factories, etc". In common parlance the expression "furniture" would include specially designed furniture also. Merely because the furniture sold to the match factory was put to a particular use, shall not detract from its characteristics of being "furniture". It would be a misnomer if the specially designed furniture is treated as an "equipment" for the match factory. The Tribunal fell in error in holding otherwise. The Tribunal appears to have been influenced by the use of the word "equipment" for the dental chair in Commissioner of Sales Tax v. Associated Dental & Medical Supply Co. [1976] 37 STC 336. That is an entirely different case. The dental chair is undoubtedly a specially designed equipment for dental clinic. The Tribunal therefore was in error in holding that the furniture sold by the assessee like tables, trays, racks, etc., did not fall under entry 121 of the First Schedule. We, consequently, accept this revision and set aside the order of the Tribunal and restore that of the Appellate Assistant Commissioner. We, however, make no order as to costs.

4. Petition allowed.

