(1990) 10 MAD CK 0059

In the Madras High Court

Case No : Tax Case No. 157 of 1981 (Revision No. 98 of 1981)

State of Tamil Nadu APPELLANT

Vs

Betala Industries RESPONDENT

Date of Decision : 22-10-1990

Acts Referred:
Central Sales Tax Act, 1956 — Section 10, 10A

Citation : (1990) 10 MAD CK 0059

Hon'ble Judges : Venkataswami, J;Abdul Hadi, J

Bench : Division Bench

Judgement

Venkataswami, J.—This tax revision is filed by the Revenue against the order of the Tamil Nadu Sales Tax Appellate Tribunal in T.A. No. 237/80 dated September 12, 1980.

2. The Tribunal by the order under revision has set aside the penalty levied against the respondent for violation of section 10(b) of the Central Sales Tax Act, 1956.

3. The brief facts are the following :

The respondent has obtained a certificate in form "C" which included items for use in the manufacture, i.e., (1) tarpaulin, tins, aprons, canvas, rexin, wax, chemicals, thread, brass eyelet, iron pegs, wooden pegs, dari and salita. On the basis of this certificate, the assessee seems to have purchased the following items, namely, hospital sheetings, aluminium buckets, P.V.C. sheetings, tarpaulin and buckets.

4. The assessing officer as well as the Appellate Assistant Commissioner were of the view that the items purchased by the respondent/assessee will not fall under the items mentioned in the registration certificate issued to the respondent and therefore, there was violation of section 10(b) of the Central Sales Tax Act, 1956. The Appellate Tribunal has found as follows :

"In [1971] 27 STC 531 (Orissa) (Bisra Limestone Company Ltd v. Sales Tax Officer) it is laid down as follows :

''The ingredient of the offence u/s 10(b) is false representation. Therefore even though there may be an ultimate finding that the goods are not covered by the certificate of registration no offence u/s 10(b) would be made out, if there is no false representation. To bring home the offence u/s 10(b), guilty animus or mens rea is essential. In the absence of mens rea, no penalty can be imposed u/s 10-A.''"

5. The learned Additional Government Pleader contends that the view taken by the Tribunal is far-fetched and cannot be sustained. On a perusal of the items included in the certificate and the items purchased as set out above; we are not in a position to hold that the view taken by the Tribunal is any way arbitrary or totally unrelated to the items mentioned in the certificate. The reasons given by the Tribunal for coming to the conclusion are also well-founded. Accordingly, we do not think that there is any case for interference.

6. Accordingly, this tax case is dismissed. No costs.

7. Petition dismissed.

