(2013) 07 MAD CK 0349

In the Madras High Court

Case No : Tax Case (Revision) No. 523 of 2006

State of Tamil Nadu — APPELLANT

Vs

Jansons Textile Processors — RESPONDENT

Date of Decision : 24-07-2013

Acts Referred:

Citation : (2014) 69 VST 443

Hon'ble Judges : K.B.K. Vasuki, J;Chitra Venkataraman, J

Bench : Division Bench

Judgement

Chitra Venkataraman, J.—The Revenue is on revision as against the order of the Sales Tax Appellate Tribunal relating to the assessment year 1998-99 raising the following questions of law:

(1) Whether the Sales Tax Appellate Tribunal is right in setting aside the assessment order on the ground that dyeing does not involve any sale of goods since levying tax on service charges attributing that dyes and chemicals are transferred during the time of processing is improper?

The learned Special Government Pleader (Taxes) appearing for the Revenue placed before us the unreported decision of this court dated July 1, 2011 passed in T.C. (R) Nos. 842, 817, 818, 819 to 823, 826, 841, 843, 849, 850, 870, 982, 987, 990, 1036, 1038 and 1040 of 2006, wherein identical question of law was raised. In the said revision, while following the decisions reported in M/s. Rainbow Colour Lab and Another Vs. The State of Madhya Pradesh and Others [OVERRULED], and M/s. Associated Cement Companies Ltd. Vs. Commissioner of Customs, , this court held that after introduction of section 3B and after amendment made to the definition of "sale" u/s 2(n)(ii), the contention raised by the learned counsel for the asses-see cannot be accepted, since by the operation of law, the transfer of goods involved in works contract would amount to "sale" taxable u/s 3B. The assessee therein had purchased the dyes and chemicals from outside the State. Consequently, this court held that the entire turnover was assessable to tax. It is seen that this court, as regards levy of penalty, set aside the levy, since there was no suppression of sale in the turnover.

2. In the circumstances, following the unreported decision of this court dated July 1, 2011 passed in T.C. (R). Nos. 842 of 2006, etc., batch, the above tax case revision is allowed, thereby the order of the Sales Tax Appellate Tribunal is set aside. However, as far as the levy of penalty is concerned, we delete the penalty levied under the order of the Sales Tax Appellate Tribunal. No costs.