(1989) 04 MAD CK 0011

In the Madras High Court

Case No : T.C. No. 77 of 1989 (Revision No. 46 of 1989)

State of Tamil Nadu — APPELLANT

Vs

P.S. Srinivasa Iyengar and Sons. — RESPONDENT

Date of Decision : 19-04-1989

Acts Referred:

Tamil Nadu General Sales Tax Act, 1959 — Section 12(2)

Citation : (1989) 04 MAD CK 0011

Hon'ble Judges : S. Mohan, O.C.J.;Venkataswami, J

Bench : Division Bench

Judgement

S. Mohan, Offg. C.J.

1. No man is penalised for a mistake, which he never intended to commit, but had happened. The case on hand is one such. Having regard to the

finding of the Sales Tax Appellate Tribunal :

The turnover in question, viz., Rs. 6,77,719 was shown in the accounts and also furnished to the assessing authority by various statements before

initiating the final assessment proceedings.

The appellants have submitted themselves for assessment on the above turnover by furnishing statements which could as well be equated to the

filing of returns before final assessment. Hence it may be seen that the omission to include the turnover is not deliberate and wilful. As such there is

no case for levy of penalty.

and further having regard to the finding of the Tribunal :

The turnover in question has been reflected in the books of accounts and also the statement filed before the assessing officer. Considering the

pleading of the appellants as the assessment is under best of judgment u/s 12(2) of the Act, penalty u/s 12(5)(iii) is not attracted. Omission to

include the turnover in return have not been proved to be willful

2. We are of the view that there is no scope for invocation of section 12(4) of the Tamil Nadu General Sales Tax Act, 1959. The tax case is,

therefore, dismissed.

3. Petition dismissed.

