(1991) 03 MAD CK 0012

In the Madras High Court

Case No : Tax Case (R) No''s. 1138 and 1139 of 1981 (Revision No''s. 508 and 509 of 1981)

State of Tamil Nadu APPELLANT

Vs

Ramachandra Textiles RESPONDENT

Date of Decision : 20-03-1991

Acts Referred:

Tamil Nadu General Sales Tax Act, 1959 — Section 4

Citation : (1991) 03 MAD CK 0012

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

Bench : Division Bench

Advocate : R. Lokapriya, for the Appellant; V. Natarajan, for the Respondent

Judgement

Dr. A.S. Anand, C.J.—The assessee in both these revision cases is the same. The controversy revolves around the assessment in respect of

waste cotton for the assessment years 1977-78 and 1978-79. The assessing authority as well as the appellate authority treated the waste cotton

purchased by the assessee and consumed by it in its mill for manufacture of low count yarn as inferior cotton and held the same liable to tax u/s 4

of the Tamil Nadu General Sales Tax Act at the point of last purchase of cotton. The assessee went up in appeal in both the cases to the Tribunal.

The Tribunal, after detailed consideration, came to the conclusion on facts that what the assessee had purchased was not ""inferior cotton"" but only

waste cotton"". The Tribunal accordingly found that so far as the ""cotton waste"" which had been purchased by the assessee is concerned, it was

liable to tax only on the first sale point in the State under item 16 of First Schedule to the Tamil Nadu General Sales Tax Act. Thus for the

assessment year 1977-78 on the basis of the material on record, the assessment in respect of the purchase of ""cotton waste"" was modified to Rs.

3,41,740.40, while for the assessment year 1978-79 it was modified to Rs. 3,29,658.22. In respect of balance out of the disputed amount, since

the assessee could not produce any evidence or material to show that what it had purchased was only ""cotton waste"" the assessment in respect of

that turnover was confirmed.

2. The only meaningful question which we are called upon to decide at this stage is as to whether the ""waste cotton"" purchased by the assessee is a

commodity distinct from ""cotton"" and further whether it is ""inferior cotton"" at all.

3. That ""cotton"" and ""cotton waste"" are commodities known distinctly in commercial parlance does not admit of any ambiguity. Indeed ""cotton

waste"" can be considered to be ""cotton"" in the sense that it is composed of fibres and that some part of it retains the capacity of being spun out; but

that alone cannot be construed as a basis to determine whether ""cotton waste"" is also ""cotton"" or not. The items in the Schedule to the Tamil Nadu

General Sales Tax Act themselves make distinction between ""cotton"" and ""cotton waste"". While cotton is taxable on the last purchase in the State

as ""declared goods"" u/s 4 of the Act, ""cotton waste"" has been made taxable only on the first sale in the State under item 16 of the First Schedule.

The Legislature made this distinction between ""cotton"" and ""cotton waste"" and it would be doing violence to the provisions of the Act and the

Schedule to equate ""cotton waste"" with ""cotton"" merely because ""cotton waste"" can also be sometimes used for the manufacture of low count yarn,

as has been done by the appellate authority. Thus, on the basis of the finding of the last fact finding authority, it must be held that the commodity

purchased by the assessee could not be treated as ""inferior cotton"" and assessed at the point of last purchase. The Tribunal therefore was right in

arriving at the conclusion that the assessee had purchased ""cotton waste"" which commodity is also known as ""waste cotton"" and was liable to pay

tax only on the first sale point in the State under item 16 of the First Schedule to the Tamil Nadu General Sales Tax Act, and modifying the

assessment of the assessee to the extent which has been indicated elsewhere in this order. No cause is made out for interference with the order of

the Tribunal. These tax revision cases are therefore dismissed but without any order as to costs.

4. Petitions dismissed.

