(1997) 09 MAD CK 0002

In the Madras High Court

Case No : T.C. No. 363 of 1988 (Revision No. 77 of 1988)

State of Tamil Nadu APPELLANT

Vs

Sree Kamaraj Waste Paper Store RESPONDENT

Date of Decision : 01-09-1997

Acts Referred:
Central Sales Tax Act, 1956 — Section 2

Citation : (1997) 09 MAD CK 0002

Hon'ble Judges : R. Jayasimha Babu, J;B. Akbar Basha Khadiri, J

Bench : Division Bench

Advocate : S. Sudharsanam, for the Appellant;

Judgement

Jayasimha Babu, J.—State has come up in revision against the order of the Tribunal disallowing the addition of Rs. 1,54,249 to the turnover

of the assessee for the year 1984-85 contending that this amount represented freight and delivery charges which had not been shown separately in

the sales bills and therefore includible in the taxable turnover.

2. The assessing officer as also the appellate authority have taken the view that as the assessee has, in the sale bills, had made entries including the

amounts of freight and delivery charges as the prices of the goods and thereafter deducted the amounts of freight and delivery charges before

adding the sales tax, the tax so charged being only on the amount excluding the delivery and freight charges, the freight and delivery charges for

part of the price and the entire amount was liable to tax.

3. The Tribunal on the other hand looked at the substance of the transaction and has rightly held that the intention of the assessee was to charge the

freight and delivery charges separately and that was shown in the bills prepared by him. Instead of showing the price of the goods and adding it to

the freight and delivery charges, the assessee has set out the aggregate amount and thereafter subtracted the freight and delivery charges. However,

the tax collected by him was on the amount excluding the freight charges, and delivery charges.

4. Section 2(h) of the Central Sales Tax Act, 1956 excludes from definition of sale price, the freight and delivery charges if charged separately.

5. The Tribunal has not erred in holding that on the facts established before it, the freight and delivery charges were to be excluded from the sale

price. This revision petition is dismissed. No costs.

6. Petition dismissed.