courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 25/08/2026

(1995) 03 MAD CK 0041

In the Madras High Court

Case No : T.C. No. 1263 of 1984 (Revision No. 170 of 1984)

State of Tamil Nadu APPELLANT

Vs

T.H. Hussain RESPONDENT

Date of Decision : 30-03-1995

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

Citation : (1995) 03 MAD CK 0041

Hon'ble Judges : T. Jayarama Chouta, J;K.A. Thanikkachalam, J

Bench : Division Bench

Judgement

Thanikkachalam, J.—The department is the petitioner herein. Imperial Bottlers, a proprietor concern, is the assessee. The assessee is a

manufacturer of soft drinks. In the assessment year 1979-80, the assessee claimed exemption on transport and handling charges to an extent of Rs.

1,745.15 and Rs. 14,578 respectively, which was stated to be as Rs. 13,507.85 and not the figure as shown in the order of the Appellate

Assistant Commissioner. The assessing officer examined the claim and found that the vehicles and supplies effected to the parties outside the State,

viz., at Pondicherry and two separate bills were made one for the cost of the drinks and another for transport and handling charges. In other

words, through the assessee had supplied the drinks at the buyers premises he had charged for the cost separately and other charges separately by

making two bills. In the miscellaneous bill claiming transport and handling charges they were not shown separately but noted totally. The split of

figures were entered only in the sales register kept for accounting purposes. The discount allowed was deducted from the miscellaneous bill.

Deducting the discount of Rs. 2,815.60 allowed, the receipts on account of transport and handling charges were Rs. 13,507.85. However,

assessing officer held that the receipts amount to pre-sale charges and hence they are includible in the sale price of the goods. Accordingly, the

exemption claimed on transport and handling charges was disallowed by the assessing officer. On appeal, the Appellate Assistant Commissioner

confirmed the order passed by the assessing officer.

2. Aggrieved, the assessee filed a second appeal before the Appellate Tribunal. The Appellate Tribunal, on verification of the records, came to the

conclusion that the cost of fright and delivery charges have been charged separately without including them in the prices of the articles sold. Hence

the Tribunal held that the assessee is entitled to claim exemption on the turnover of Rs. 13,507.85. Aggrieved by this order, the department is in

revision before this court.

3. According to the learned Additional Government Pleader (Taxes), the order of the Tribunal in deleting the turnover of Rs. 13,507.85

representing transport and handling charges under the Central Sales Tax Act, 1956 is not correct. The Tribunal failed to note the scope of section

2(h) of the Central Sales Tax Act, 1956 when allowing the deduction from the taxable turnover of the assessee. The assessee had charged Rs. 11

per crate irrespective of the distance and place of delivery and as such it will not come u/s 2(h) of the Central Sales Tax Act, 1956. The Tribunal

failed to appreciate the fact that the assessee used their own delivery notes in form XX for the transport of goods to the place of business of the

distributors and other customers and that therefore the transport charges are only pre-sale charges and not post-sale charges. According to the

learned Additional Government Pleader (Taxes), the agreement which is said to have been produced before the Tribunal was not produced before

the assessing officer. For all these reasons, it was stated that the Tribunal was not correct in holding that the assessee is entitled to exemption on

the turnover of transport and handling charges.

3A. On the other hand, learned counsel for the respondent, while supporting the order passed by the Tribunal, submitted that the Tribunal, on

verification of the records, came to the conclusion that transport and handling charges were entered separately in the accounts as per the

agreement between the parties. Before the Tribunal, the agreement and the bills

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/state-of-tamil-nadu-appellant-hash-…

were produced. After verification the Tribunal came to the

conclusion that the transport and handling charges are not pre-sale charges. In view of these facts, it was submitted that the order passed by the

Tribunal is in accordance with the facts arising in this case, and hence no interference is called for.

4. We have heard rival submissions.

5. We have set out the facts in detail. The assessee is a proprietorship concern selling soft drinks in Pondicherry. The assessee used to collect cost

of the drinks sold and charges for Transport and handling separately. Through in the bills a consolidated amount is entered for cost of the drinks

and transport and handling charges, in the account books they were shown separately. Section 2(h) of the Central Sales Tax Act, 1956 states that

''sale price'' means the amounts payable to a dealer as consideration for the sale of any goods, less any sum allowed as cash discount according to

the practice normally prevailing in the trade, but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time or

before the delivery thereof other than the cost of fright or delivery or the cost of installation in cases where such cost is separately charged"". In

support of the contention put forth by the assessee that the transport and handling charges were separately mentioned in the account books, the

assessee produced the account books and the bills before the Tribunal. The Tribunal, on verification of the records held that the assessee has billed

for the transport and handling charges separately without including them in the price of the goods sold. No doubt, it is true that the agreement

showing that the transport and handling charges are to be borne by the distributor was not produced before the assessing authority at the time of

verification. But when the appeal was filed before the Appellate Assistant Commissioner the assessee submitted that there is an agreement between

him and the distributors according to which the transport and handling charges are to be borne by the distributors. But this agreement was not

verified by the Appellate Assistant Commissioner. However, the Appellate Tribunal, on verification of the bills, agreement, etc., came to the

conclusion that transport and handling charges were mentioned separately without including them in the sale price of the soft drinks. This conclusion

was arrived at on the facts arising in this case. Inasmuch as on verification of

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/state-of-tamil-nadu-appellant-hash-…

facts, the Tribunal came to the conclusion that the assessee is entitled

to exemption on the turnover of Rs. 13,507.85, we consider that there is no infirmity in the order passed by the Tribunal on this aspect.

Accordingly, we are not inclined to interfere with the same. In the result, the revision is dismissed. No costs.

6. Petition dismissed.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/state-of-tamil-nadu-appellant-hash-...