(1974) 10 MAD CK 0020

In the Madras High Court

Case No : Tax Case No''s. 323 to 328 and 388 of 1969

Sundaram Industries Private Limited — APPELLANT

Vs

The State of Madras — RESPONDENT

Date of Decision : 16-10-1974

Acts Referred:

Citation : (1975) 36 STC 95

Hon'ble Judges : V. Ramaswami, J;Ramanujam, J

Bench : Division Bench

Advocate : A.R. Ramanathan, for the Appellant; K. Venkataswami, Additional Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Ramanujam, J.—In all these cases, a common question arises as to whether the bus bodies built by the assessees on the chassis supplied by

the customers can be taxed as sales of bus bodies. T. C. No. 326 and 388 of 1969 relate to assessments made under the Central Sales Tax Act

and the other cases relate to assessments made under the Tamil Nadu General Sales Tax Act, 1959.

2. The assessee in T. C. No. 328 of 1969 had challenged similar assessments made by the assessing authority in respect of the earlier years. When

those matters ultimately came to this court, this court held in T. V. Sundram Iyengar and Sons (P.) Ltd. v. State of Madras [1970] 25 S.T.C. 160,

that the transaction of building bus bodies on the chassis supplied by the customers are liable to be taxed as sales of goods. It was found on the

evidence in that case that the property in the materials passed to the customer only at the time of the delivery of the completed bus body as a specific chattel fitted on to the chassis supplied by the customers, and that the property in the materials which were used in building the bus body

did not pass to the customer as and when they were worked into the chassis in the process of body-building. These facts were taken as leading to

the conclusion that the transfer of property in the bus body built on the chassis supplied by the customer as a specific chattel for a certain

consideration amounted to a transaction of sale of bus body. The learned Judges in that case felt that the specification of specific articles, with their

prices given separately in the bills, is of no consequence, in the absence of any contract between the parties to indicate that there was a separate

bargain or contract for the purchase of the specified articles which are to be worked into the chassis in the process of body-building. The said

decision of this court has since been affirmed by the Supreme Court in Civil Appeals Nos. 2229 to 2231 of 1969 Since reported as X.V.

Sundram Iyengar & Sons v. State of Madras [1975] 35 S.T.C. 24 (S.C.).

3. The facts in all these cases are more or less similar to the facts of the cases dealt with by this court in T.V. Sundram Iyengar and Sons'' case

[1970] 25 S.T.C. 160, except for a minor difference. In the cases dealt with in T.V. Sundram Iyengar and Sons'' case [1970] 25 S.T.C. 160, the

work of body-building was undertaken in pursuance of what is called ""repair order"" from the customer. But, in these cases, the body-building was

undertaken in pursuance of certain correspondence between the customer and the assessees. The correspondence is to this effect : The customer

requested the assessees to construct a bus body on the chassis to be supplied by him. The assessees required the customer to give specifications

of the particular bus body which he required to be constructed on his chassis. After the customer gives his specifications and agrees to the cost

quoted by the assessees, the work is undertaken by the assessees. Whether the work is undertaken by the assessees as a result of a ""repair order

placed by the customer, or as a result of correspondence, the factual position appears to be that the assessees agreed to erect a bus body on the

chassis supplied by the customer for a specified amount fixed on the basis of the specifications for the bus body given by the customer. There are

no materials in these cases to indicate that the property in the materials which have been worked into the chassis in the process of body-building passed to the customer then and there. There is also no separate agreement for the sale of these materials which were worked into the chassis in

the process of body-building. On the materials available, the conclusion is inescapable that the property in the bus body built by the assessees

passed to the customer only at the time of handing over the completed bus body along with the chassis. Therefore, the transaction would amount

only to a sale of bus body by the assessees to the customer.

4. Following the decision given by this court in T.V. Sundram Iyengar & Sons'' case [1970] 25 S.T.C. 160, which has since been affirmed by the

Supreme Court Since reported as X.V. Sundram Iyengar & Sons v. State of Madras [1975] 35 S.T.C. 24 (S.C.), we have to dismiss the above

tax cases and they are accordingly dismissed with costs. Counsel''s fee Rs. 100 in each case.

