
(1979) 01 MAD CK 0019

In the Madras High Court

Case No : T.C. No's. 568 and 573 of 1978

The Coimbatore District Central Co-Operative Supply and
Marketing Society Ltd.

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 16-01-1979

Acts Referred:

Central Sales Tax Act, 1956 — Section 10

Citation : (1980) 45 STC 21

Hon'ble Judges : T. Ramaprasada Rao, C.J.; Ratnavel Pandian, J

Bench : Division Bench

Advocate : Subbaraya Iyer, Padmanabhan and Ramamani, for the Appellant;

Final Decision : Dismissed

Judgement

T. Ramaprasada Rao, C.J.—In these two cases, the question involved is whether a registered dealer is liable to be penalised for having

caused a violation which is characterised as a technical violation of Section 10(b) of the Central Sales Tax Act. Section 10(b) of the Central Sales

Tax Act provides that if any person, being a registered dealer, falsely represents when purchasing any class of goods that goods of such class are

covered by his certificate of registration, then he is liable to be penalised. What happened in these cases was that the goods which were not

covered by the registration certificate were purchased by the petitioners. They would admit that they had issued C forms for the purchase of the

goods not mentioned in their registration certificate. But they would claim relief on the ground that they were under the bona fide impression that

they were entitled to buy the goods in question by the issue of C forms in view of the very registration certificate itself. In that sense, the petitioners

case was that there was only a technical violation and not a false representation. The Appellate Assistant Commissioner has set out in detail what were the goods specified in the dealer's registration certificate. He compared the goods purchased by them with reference to the goods enumerated in the registration certificate. He found that the sunflower oil plant, pop-corn machines, 3 YDA machines, etc., purchased by the petitioners by use of C forms do not fall within the class or classes of goods enumerated in the C form certificate. The assessing officer took a very strong view of the situation and notwithstanding the fact that the petitioners is a co-operative society, subjected them to a maximum penalty. The Appellate Assistant Commissioner took a lenient view and reduced the quantum of penalty. The Appellate Tribunal, after dealing with the subject in a somewhat detailed fashion, while upholding the order of the Appellate Assistant Commissioner, again reduced the penalty considerably. It is as against this the present tax cases have been filed.

2. These are cases in which the assessee themselves have admitted that the purchased goods are not in part materia with the enumerated goods in the registration certificate. Their own plea is that there has been only a technical violation and, therefore, they should be dealt with leniently. Their further case is that they were under the bona fide impression that they were entitled to buy the goods in question by the issue of C forms in view of the registration certificate itself. Even on a prime facie examination of the contentions, they are inconsistent. The assessee relies on the registration certificate for the purpose* of supporting their claim of bona fides. "Bona fide" is not an expression of art but is a positive circumstance which has to be established by relevant and acceptable materials. The only material on which the assessee falls back upon to substantiate their bona fides is their registration certificate. They would, however, admit that the goods enumerated in the registration certificate do not enable them to purchase the goods which they did by the issue of C forms. Far from there being a technical violation as contended, suffice it, however, for us to say, in the instant case, that there has been a violation of Section 10(b), whose grammatical meaning would be that there has been a representation by the assessee that their certificate of registration would enable them to purchase the goods in question when they knew that it did not. This is obviously

not a truthful representation which is an equation of a false representation. As a matter of fact, our Court in T.C. No. 264 of 1972 considered the

scope of the word "violation" and observed that if there is a violation, it was only the violation of Section 10(b) and, if Section 10(b) has been

violated, there was no question of that violation being either technical or otherwise. Having regard to the circumstances in this case, when in a

situation where the assesseees were conscious of overt purchases having been made by them in the teeth of the enumerated products in the

registration certificate, the plea of bona fides set out by them as the main cause for the lenient view does not appear to be a justifiable contention.

Anyway, a lenient view having been already taken by both the Appellate Assistant Commissioner and the Appellate Tribunal, we see no reason to

interfere, as, in our view, there has been a violation within the meaning of Section 10(b).

3. In the result, these tax cases are dismissed.