
(1973) 05 MAD CK 0011

In the Madras High Court

Case No : T.C. No. 365 of 1969 (Revision No. 240 of 1969)

The State of Madras

APPELLANT

Vs

M.P. Rajan and Company

RESPONDENT

Date of Decision : 02-05-1973

Acts Referred:

Citation : (1974) ILR (Mad) 461 : (1973) 32 STC 256

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

Bench : Division Bench

Advocate : K. Venkataswami, First Assistant Government Pleader, for the Appellant;

Final Decision : Allowed

Judgement

Ramanujam, J.—The assessee in this case claimed exemption in respect of its sales of copy note-books both in relation to the assessment under the Central Sales Tax Act as also under the local Sales Tax Act on the ground that the State Government have exempted the sales of such note-books in pursuance of a G. O. issued under the Madras General Sales Tax Act, 1959. This claim was negated by the assessing authority on the ground that the proper notification to be applied in this case is the notification under G. O. No. 976, Revenue, dated 28th March, 1959, as amended by G. O. No. 4725, Revenue, dated 30th October, 1961, issued under the Madras General Sales Tax Act, 1959 and that as per the said G. O. it is only "reading books including text-books" that are exempted from the liability under the Sales Tax Act. The assessing authority therefore proceeded to assess the turnover relating to the sales of the copy note-books.

2. There were appeals to the Appellate Assistant Commissioner but without success. On further appeals the Tribunal held that the notification in G. O. No. 976, Revenue, dated 28th March, 1959, which is relied on by the revenue having been struck down by this court as invalid in W. P. Nos. 354 to 360 of 1963, it should be taken to be non-existent and, therefore, the earlier notification dated 27th July, 1957, should be applied even in relation to the assessment years in

question. Under the said notification dated 27th July, 1957, the Government has exempted all "sales of books". Interpreting this G. O. the Tribunal held that the word "books" has to be understood in a wide sense and that copy note-books will also come within the exemption provided for in that notification. The revenue challenges the correctness of the view expressed by the Tribunal.

3. It is seen that the notification issued in G. O. No. 976, Revenue, dated 28th March, 1959, has since been upheld by the Supreme Court in *State of Madras v. S. Padmanabhan* [1971] 27 S.T.C. 466 on the ground that the Government had the necessary power to issue a notification in advance or in anticipation of the coming into force of the enactment. The result of the Supreme Court's decision is that G. O. No. 976, Revenue, dated 28th March, 1959, is valid and that, therefore, the Tribunal's reasoning that the said notification is invalid and it cannot be taken into account for the purpose of finding out whether the assessee is entitled to exemption or not cannot be sustained. As per Notification G. O. No. 976, Revenue, dated 28th March, 1959, as modified by G. O. No. 4725, Revenue, dated 30th October, 1961, "sales of reading books including text-books" alone are exempted. Copy note-books cannot be said to be either reading books or text-books. Therefore, the Tribunal's decision has to be set aside and it is set aside accordingly. The tax case is, therefore, allowed. There will, however, be no order as to costs.