(1982) 11 MAD CK 0027

In the Madras High Court

Case No : T.C. No. 1024 of 1980 (Revision No. 613 of 1980)

The State of Tamil Nadu — APPELLANT

Vs

Abdullah Malick and Company — RESPONDENT

Date of Decision : 18-11-1982

Acts Referred:

Citation : (1984) 57 STC 135

Hon'ble Judges : Ratnam, J;N.V. Balasubramanian, J

Bench : Division Bench

Advocate : K.S. Bakthavatsalam, Additional Government Pleader, for the Appellant; C. Natarajan, for the Respondent

Judgement

Balasubrahmanyan, J.—The assessee in this case is a dealer and exporter in hides and skins. During 1975-76, he exported hides and skins

through several agents. The records showed that the transactions between the assessee and the agents were not as between principal and principal

for but the latter were appointed specifically as agents for export. The books of the assessee showed that they were credited with commissions.

The books further showed that there were also incidental expenses connected with the agency. Having regard to these facts, the Tribunal held,

disagreeing with the views of the assessing authority, that the transactions in question must be regarded as sales in the course of export and in

consequence, exempt from payment of sales tax.

2. The contrary view expressed by the Appellate Assistant Commissioner as well as by the assessing authority was really based on a selective

blindness to the facts on record. For instance, the Appellate Assistant Commissioner not only disregarded the entries in the accounts, invoices and other relevant documents showing that the transactions were put through by the assessee through the media of agents, but went so far as to say that

the commission payments to the agents must be disregarded in order that the transactions may be treated as direct sales by the assessee to the so-

called agents, treating the latter as principals. The orders of the Appellate Assistant Commissioner cannot be supported at all. The argument of

learned Government Pleader was sought to be put forward only on the basis of the reasonings contained in the orders passed by the Appellate

Assistant Commissioner.

3. On the clear findings rendered by the Tribunal that the transactions were really effected by the assessee through the accredited agents and the

transactions themselves were only transactions of sale in the course of export, we must reject these revision petitions as without substance. We do

so accordingly. There will be no order as to costs.

