
(1982) 01 MAD CK 0013

In the Madras High Court

Case No : T.C. No. 304 of 1979 (Revision No. 112 of 1979)

The State of Tamil Nadu

APPELLANT

Vs

Best and Co. (P.) Ltd.

RESPONDENT

Date of Decision : 11-01-1982

Acts Referred:

Citation : (1984) 57 STC 174

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

Bench : Division Bench

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

Judgement

Balasubrahmanyam, J.—The only point for consideration in this revision which has been brought by the State Government from the order of

the Sales Tax Appellate Tribunal is whether monobloc pump sets can be classified under the item ""electrical goods"" occurring in entry 41 of the

First Schedule to the Tamil Nadu General Sales Tax Act, 1959. The full text of the entry is as follows :

All kinds of electrical goods (other than those specified elsewhere in this Schedule), including wires, holders, plugs, switches, casings, cappings,

reapers, bends, junction boxes, meter boxes, switch boxes, meter boards, switch boards, electrical earthenware and porcelain-ware.

2. The present controversy arises out of an assessment for the year 1972-73. It may be observed that item 41-A of the First Schedule which was

subsequently inserted with effect from 3rd March, 1975, which incidentally does not apply to the present case makes the following ""electrical

instruments"" as subjects of single point levy :

41-A. All electrical instruments, apparatus and appliances (other than those specified elsewhere in this Schedule), but including electrical fans, lighting bulbs, torches, fluorescent tubes and their fittings including chokes and starters and parts and accessories of all such electrical instruments, apparatus and appliances.

3. The question in the present case however is whether monobloc pumpsets are to be regarded as "electrical goods". The Tribunal's order in this

very assessee's case for a previous assessment year gives a description of the monobloc pumpset. It is stated to be an electrically driven pumpset.

The pumpset which is necessary for suction of water is attached to the electrical motor as one and single item of machinery. It is observed that the

major part of the pumpset is the electrical motor.

4. Notwithstanding this understanding of the nature of the monobloc pumpset and notwithstanding a finding in the appeal under revision that

monobloc pumpset could not be run without the use of electrical energy, the Tribunal held that this type of pumpset cannot be classified as

electrical goods, but must be held to be only general machinery, the sale of which is assessable to multi-point rate. In arriving at this conclusion, the

Tribunal referred to William Jacks and Co. Ltd., Madras v. State of Madras [1955] 6 STC 301 observing that that decision supported their

conclusion.

5. We do not accept the decision of the Tribunal as based on a proper understanding of the expression "electrical goods". The decision in William

Jacks and Co. Ltd., Madras v. State of Madras [1955] 6 STC 301 which the Tribunal assumed was a decision in support of their conclusion turns

out on examination to have laid down the very opposite conclusion. Certain general observations to be found in that decision are unexceptionable.

The learned Judges observed that it would be neither possible nor desirable for a Court to embark on an exhaustive definition or enumeration of

what constitutes electrical goods within the meaning of the Sales Tax Act. They also recognised that it would be unwise to devise a formula or test

of universal application. At the same time, they repelled the suggestion that the expression "electrical goods" ought properly to be confined only to

those goods or items of machinery which are used in the generation, storage, distribution and transmission of electricity. They proceeded to hold

that only articles the use of which cannot be had except with the application of electrical energy can be regarded as electrical goods.

6. The particular kind of commodity the nature of which the learned Judges had examined in that case was an item of machinery containing a pump

section to which was attached an electric motor. They found that both the pump section and the electric motor had to be taken as a unit. They

further found that the pump could not be worked or driven by any alternative method of power supply. On the basis of these attributes of the item

of machinery and taking them as a whole, without impairing their unity, the learned Judges held that the pumpsets in question in that case were

electrical goods.

7. It would be only too easy for us to regard this decision as a direct precedent for the case on hand. We, however, do not propose to regard it as

such, having regard to the caution uttered by the learned Judges in that very judgment that the term ""electrical goods"" as appearing in the sales tax

legislation defies definition and enumeration. This means that we must seek to apply only the broad principles to particular cases in an attempt to

find out whether the goods in question in those cases properly answer the description of electrical goods. In *William Jacks and Co. Ltd. v. State of*

Madras [1955] 6 STC 301, the learned Judges on doubt took note of the fact that the pump section attached to the electric motor so as to make it

one single item of machinery could not be driven excepting by the use of electrical energy. It does not appear, however, that they regarded this

characteristic as the sole or decisive factor for holding that the said item came under the heading ""electrical goods"", for, in a subsequent decision in

which *William Jacks and Co. Ltd.*'s case [1955] 6 STC 301 was purported to have been applied by the same learned Judges, viz., *William Jack*

and *Co. Ltd. v. State* [1960] 11 STC 340, the same learned Judges observed that the mere fact that an item of machinery depended on electricity

for its working would not lead to the conclusion that it would fall within the category of electrical goods. In this case, the learned Judges were

dealing with a lathe which was fashioned to operate with the aid of electrical energy. The learned Judges pointed out that a lathe of that kind could

easily be altered for use with equal efficiency with the aid of any form of power other than electricity. The implication in this decision seems to be

that the component of the machinery in question which makes it unworkable excepting by the use of electrical energy can easily be dispensed with

and is not an integral part of the machinery itself. It is in this respect that this decision differs from the earlier one in *William Jacks and Co. Ltd. v.*

State of Madras [1955] 6 STC 301, which was a case, as we mentioned earlier, of a single unit of machinery in which pump section was

inextricably attached to an electric motor, and in which the conclusion of the learned Judges was that it was an item falling under electrical goods.

8. In a subsequent decision of another Bench of this Court reported in *Deputy Commissioner of Commercial Taxes v. Ravi Auto Stores* [1968] 22

STC 172 it was observed as a matter of general principle that the susceptibility of the machinery to be used with the aid of electrical energy will not

per se bring it under the entry "'electrical goods'". That, according to the learned Judges, would not be lay (sic) too much stress on the manner of

user of the item of machinery with electricity as the motive power. While observing that an expression such as "'electrical goods'" is more easily

understood than defined satisfactorily, the learned Judges proceeded to hold that in order to come within the classification, the goods must first be

intrinsically electrical goods and secondly their use cannot be had excepting with electrical energy. According to the learned Judges both these

factors must be present.

9. It seems to us that monobloc pumpsets answer the test which have been laid down in some form or other in all the decisions which we have

referred to. It is a single unit of machinery which, although it contains a suction for lifting water, is yet intrinsically cleaved into an electric motor,

both being integral parts of the same mechanical unit such that without the one the other could not perform its function. The second characteristic of

this pumpset is that the components relating to suction cannot be taken apart and used as such or separated from the components comprising the

electric motor. The electric motor is thus inextricably fused into the other part of the machinery. Being a single block of machinery as its name

suggests, and not being capable of being operated excepting with the use of electricity as motive power, the monoblocs which have been sold by

the assessee in the course of his business must necessarily fall under the item "'electrical goods'" coming under entry 41 of the First Schedule to the

Act.

10. The learned counsel for the assessee cited a decision or two in which monobloc pumpsets have come up for tax treatment under other

enactments. Karnal Machinery Store v. Assessing Authority [1973] 31 STC 3 is a decision of the Punjab and Haryana High Court in which

monobloc pumpsets figured in the discussion as to whether they should fall within the classification of electrical goods or agricultural implements,

apparently under the Punjab General Sales Tax Act, 1948, under which that question arose before that High Court. There was an entry, entry 17,

in Schedule A to that Act dealing with monobloc pumping set and another entry, namely, entry 34 in Schedule B dealing with agricultural

implements. The learned Judges took note of the factual finding in that case that the turnover in question represented sales of pumping sets to

agriculturists for irrigation purposes. Having regard to the particular segment of the consuming public to which these sales were effected by the

assessee in that case, the learned Judges held that it was quite proper to bring those sales under entry 34 of Schedule B dealing with agricultural

implements, notwithstanding that the goods, as such, and in their intrinsic character, could be brought within the other category, namely, monobloc

pumping set, if they had not been sold to agriculturists. In a later case of the same High Court in Paul Electric Co. v. Assistant Excise and Taxation

Commissioner [1980] 46 STC 504, a similar view was taken of the nature of the goods sold. The approach of the High Court was to consider the

monobloc pumping set from the point of view of the sales destination being to the agricultural section so as to render the transaction as sales of

agricultural implements. The learned Judges observed that but for the sale having been directed to agriculturists, the centrifugal pumpset might easily

fall within another item, namely, centrifugal pump, found elsewhere in the schedule to the Punjab General Sales Tax Act.

11. Having regard to the grounds on which the two Punjab and Haryana decisions were rested, it seems to us that the ruling rather support the line

of decisions of our Court to which we have made reference earlier. We would like to imagine that but for the presence of a separate entry for

agricultural implements, the decision of the Punjab High Court might very well have been that the monobloc pumpsets are to be classified as

electrical goods.

12. The learned counsel for the assessee referred to a decision which had arisen under the Income Tax Act as a support for his proposition that

monobloc pumpsets cannot be regarded as electrical goods : Vide Commissioner of Income Tax, Tamil Nadu-V Vs. Dhandayuthapani Foundry

(Private) Ltd., . In that case, a question arose whether centrifugal pumps were agricultural implements falling within the ambit of item (9) of the Fifth

and Sixth Schedules to the Income Tax Act, 1961. We do not think this decision or the reasoning on which it was based are of any assistance to

us in the determination of the question in this revision, considering that the statutory context in which the point has to be decided by us is wholly

different from that which prevailed in the decision cited.

13. Having regard to all the considerations we have stated above, we are satisfied that the Tribunal was in error in holding that monobloc pumps

have got to be assessed as an item of general machinery and do not fall within the classification of electrical goods within the meaning of item 41 of

the First Schedule to the Tamil Nadu General Sales Tax Act. Their decision as we have earlier demonstrated is based on a thorough

misunderstanding of what was decided by this Court in the first of the William Jacks and Co. Ltd.'s case [1955] 6 STC 301. We accordingly

allow the State Government's revision and set aside the Tribunal's order and restore the order of the Appellate Assistant Commissioner. The State

will have its costs. Counsel's fee Rs. 250.

January 11, 1982.

The order of the Court was made by

Balasubrahmanyam, J.

14. This case was once again posted to accommodate further arguments being addressed by the learned counsel for the tax-payer. He brought to

our notice one other decision of this Court in Sri Sakthi Textiles Ltd. v. State of Tamil Nadu [1979] 43 STC 404 in which item 41 of the First

Schedule to the Act was considered with reference to a cone winding machine fitted with electric motors. The learned Judges held that it does not

fall under item 41. In the course of their judgment, they referred to some of the earlier cases which had to deal with various kinds of items of

machinery in which the question arose whether they could be brought within the classification of electrical goods or electrical machinery. The

argument which was addressed before that Bench on behalf of the assessee was that in the context in which the expression ""machinery"" was used

in entry 41, as it stood before its amendment by Act 15 of 1964, the reference to ""electrical machinery"" must be understood as machinery of the

same nature as electrical goods. It was further urged that any item of machinery which could not be characterised as electrical goods would not fall

within that entry. This argument was substantially accepted by the Bench, when they rendered their decision that cone winding machines fitted with

electric motors cannot be regarded as electrical goods or electrical machinery.

15. We do not think that anything which had been decided in that case alters our conclusion in this case in any way, in so far as we held that

monobloc pumpsets are electrical goods. We grant that at the time when we delivered the judgment we completely missed the inclusion of the

expression ""machinery"" in item 41. We based our conclusion out and out on the supposition that entry 41 only refers to electrical goods. The

addition of the expression "machinery" only makes our conclusion a fortiori. We have no doubt whatever that a monobloc pumping set can be

regarded as electrical goods and since it is an item of machinery, it falls under both sub-heads ""electrical goods"" as well as ""electrical machinery"".

We do not think that anything that has been urged in the additional argument tends to alter our earlier conclusion.