(1981) 01 MAD CK 0042

In the Madras High Court

Case No : T.C. No. 815 of 1980 (Revision No. 473 of 1980)

The State of Tamil Nadu APPELLANT

Vs

Nava Bharath Enterprises (P.) Ltd. RESPONDENT

Date of Decision : 05-01-1981

Acts Referred:
Tamil Nadu General Sales Tax Act, 1959 — Section 21, 21(3), 21(7), 22, 22(2)

Citation : (1983) 52 STC 235

Hon'ble Judges : M.M. Ismail, C.J;Sethuraman, J

Bench : Division Bench

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

Judgement

Ismail C.J.

1. This is a petition to revise the order of the Sales Tax Appellate Tribunal (Main Bench), Madras, dated 8th January, 1980, made in T.A. No. 836 of 1979. The matter lies within a very narrow compass. The respondent herein was a registered dealer under the Tamil Nadu General Sales Tax Act and was paying regularly registration fee up to the assessment year 1973-74. From the assessment year 1974-75, the respondent did not remit the fee for renewal of the registration certificate. According to the respondent, there was no business in respondent-company until March, 1977, since the factory was closed down. In November, 1976, and March, 1977, the respondent claimed to have sold imported paraffin to various companies and collected sales tax. From the inspection by the Intelligence Wing Officers, these sales were brought to the notice of the department. Thereafter a notice was issued and objections were called for. While the matter was thus pending, on 2nd June, 1978, the respondent paid Rs. 40 being the renewal fee for registration for the four assessment years 1975-76 to 1978-79 to the assessing officer. It is thereafter that the department sought to take action against the respondent and imposed a penalty u/s 22(2) of the Tamil Nadu General Sales Tax Act, 1959 (hereinafter

referred to as the Act), for collecting sales tax at a time when the respondent was not a registered dealer. The Tribunal having set aside the penalty, the matter has come before this Court.

2. We are of the opinion that the order of the Tribunal does not require any interference. Section 21 of Tamil Nadu Act 1 of 1959 deals with the procedure for registration and section 21(3) says that a certificate issued under sub-section (2) shall be valid for a year and shall be renewed from year to year on payment of the fee specified in sub-section (1). Sub-section (7) of section 21 reads as follows :

"Section 21. (7) A dealer shall, until his registration is cancelled, be liable to pay the fees specified in sub-section (1) for every year subsequent to that in which he applied for registration :

Provided that when a dealer has ceased to do business in any year, and gives notice of the same to the prescribed authority, he shall not to be liable to pay any registration fee from the commencement of the following year unless he resumes business."

3. The effect of the above statutory provision is that once a dealer gets himself registered, he continues to be a registered dealer unless the registration is cancelled, and if during the interval he fails to pay the renewal fee, the department has got a right to collect the same, but certainly not to treat him as an unregistered dealer unless and until the registration itself has been cancelled. This view is reinforced by the provisions contained in the Rules made by the Government. Rule 24 of the Tamil Nadu General Sales Tax Rules, 1959, provides for the registration and rule 24(9) deals with the application for renewal. That rule states as follows :

"Rule 24. (9) Every registered dealer shall, until his registration is cancelled, submit an application in form D and pay the fee of rupees ten only specified in sub-rule (7) for every year subsequent to that in which he applied for registration, within thirty days of the commencement of the year for which the registration has to be renewed, and in addition a further fee of rupees five only in respect of each of his place of business other than the principal place of business."

4. The proviso to this rule states that where there are no changes in any of the particulars required in columns 1 to 8 of form D, fresh application need not be submitted for renewal of the registration certificate in the prescribed form; but a letter shall be sent to that effect.

5. These provisions make it clear that when once the registration has been granted on a proper application made by a dealer and on payment of the required fee, the registration continues till it is cancelled, subject to the obligation of the dealer applying for renewal each year by paying the renewal fee, and this application was not intended to be in any technical form and even

the mere writing of a letter would be sufficient. As a matter of fact, the language of rule 24(9) is completely in accordance with section 21(7) of the Act, and therefore when once as in the present case the department had accepted the fees for renewal for four years paid by the respondent herein, the department had no right to treat the respondent as an unregistered dealer having regard to the provisions referred to above and levy a penalty u/s 22 of the Act. The result is that the Tribunal cannot be said to have decided a question of law erroneously. The tax revision case fails and the same is dismissed.

