(2013) 07 MAD CK 0193

In the Madras High Court

Case No : TC (Revision) . No''s. 121 and 228 of 2011

The State of Tamil Nadu APPELLANT

Vs

R. Nallasamy M/s. Ananda Power Press RESPONDENT

Date of Decision : 26-07-2013

Acts Referred:

Citation : (2014) 71 VST 342

Hon'ble Judges : K.B.K. Vasuki, J;Chitra Venkataraman, J

Bench : Division Bench

Advocate : Manohar Sundaram, Special Govt. Pleader Taxes, for the Appellant;

Judgement

Chitra Venkataraman, J.—The above Tax Case Revisions are filed at the instance of the Revenue as against the order of the Tamilnadu

Sales Tax Appellate Tribunal for the assessment year 1983-84 and 1987-88. The above Tax Case (Revisions) were admitted on the following

substantial questions of law:--

1. Whether the Sales Tax Appellate Tribunal is right in holding that no sales tax is payable on the supply of printed materials which were printed by

the assessee on the orders received from their customers and according to their specifications without ascertaining the dominant intention of the

parties to the transaction which is crucial to decide the issue?

2. Whether the Sales Tax Appellate Tribunal is right in proceeding on the footing that since the printed materials supplied by the assessee have no

commercial value in the sense that they cannot be marketed in the open market, the impugned transactions were purely ones of work and labour?

Learned Special Government Pleader (Taxes) brought to our attention the decision of this Court reported in The State of Tamil Nadu Vs. Tvl. The

Premier Litho Works and The Secretary, Sales Tax Appellate Tribunal, wherein this Court dismissed the appeal preferred by the State on the

ground that what was supplied by the dealer was only labels on which certain particulars had been printed to suit the requirements of a particular

customer. This Court observed that the labels by themselves could not really be sold in the open market and they had no use since the same were

not of any use in the open market. This Court pointed out that on the contractor undertaking to do the work for the particular customer therein, the

labels would not necessarily be deemed to sell the materials the fact that in the execution of the contract for work some materials were used and

the property/goods so used, passed to the other party would not by itself make the transaction a sale. In other words, the dominant intention was

not for sale of labels. Hence, the transaction could not be treated as deemed sale for the purpose of assessing the turnover.

2. The assessee is a dealer in printing materials. The Assessing Authority assessed the sales of printed materials. Aggrieved against the same, the

assessee went on appeal before the Appellate Assistant Commissioner, who agreed with the assessee set aside the order of assessment. As

against the same, the Revenue went on further appeal before the Tamil Nadu Tax Appellate Tribunal, who dismissed the Revenue''s appeal,

thereby, affirming the order of the Appellate Assistant Commissioner. As against the same, the Revenue has preferred the present appeal before

this Court.

3. As stated above, the decision of this Court reported in The State of Tamil Nadu Vs. Tvl. The Premier Litho Works and The Secretary, Sales

Tax Appellate Tribunal, , would squarely applicable to the case on hand. Following the same, we hold that the transaction in question could not be

assessed to tax. In the circumstances, the above Tax Case (Revisions) are dismissed. No costs.

