(2013) 07 MAD CK 0194

In the Madras High Court

Case No : TC (Revision) . No. 241 of 2011

The State of Tamil Nadu APPELLANT

Vs

Tvl. Rainbow Printers RESPONDENT

Date of Decision : 26-07-2013

Acts Referred:

Citation : (2014) 69 VST 506

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 Revision is filed at the instance of the Revenue as against the order of the Tamilnadu Sales

Tax Appellate Tribunal for the assessment year 1996-97. The above Tax Case (Revision) was 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 [2009] 26 VST 205 (Mad) State of

T.N. v. Premier Litho Works, 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 concluded that the sale of printed materials would fall under Entry Item

No. 45 of Part C upto 16.7.96 and Entry Item No. 52 of Part C from 17.7.96 of First Schedule to Tamil Nadu General Sales Tax Act, 1959.

Thus, the Assessing Officer assessed the assessment. Aggrieved by this, the assessee went on appeal before the Appellate Assistant

Commissioner, who accepting the contention of the assessee that the transactions were works contract only, remanded the matter back to the

Assessing Officer to pass assessment order accordingly. The assessee filed an appeal before the Tamil Nadu Sales Tax Appellate Tribunal,

wherein the Tribunal held that considering the positive finding that the transactions were works contract, there was no valid ground for the

Appellate Assistant Commissioner to remit the matter back to the Assessing Officer to pass fresh assessment order. The Tribunal, in fine, allowed

the assessee''s appeal. 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 [2009] 26 VST 205 (Mad) State of T.N. v. Premier Litho Works, would squarely apply

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 (Revision) stands dismissed. No costs.

