
(1956) 01 MAD CK 0016

In the Madras High Court

Case No : City Civil Court Appeal No's. 31 and 35 of 1954

William Jacks and Company Limited

APPELLANT

Vs

The State of Madras

RESPONDENT

Date of Decision : 03-01-1956

Acts Referred:

Madras General Sales Tax Act, 1939 — Section 3(2)(1)

Citation : (1956) ILR (Mad) 332 : (1956) 7 STC 327

Hon'ble Judges : Basheer Ahmed Sayeed, J

Bench : Single Bench

Advocate : King and Partridge, for C.C.C.A. No. 31 of 1954 and The Assistant Government Pleader and C. Rangaswami Iyengar, in C.C.C.A. No. 35 of 1954, for the Appellant; The Assistant Government Pleader and C. Rangaswami Iyengar in C.C.C.A. No. 31 of 1954 and King and Partridge, in C.C.C.A. No. 35 of 1954, for the Respondent

Final Decision : Dismissed

Judgement

Basheer Ahmed Sayeed, J.—These two appeals arise out of the common judgment of the learned Principal City Civil Judge in O.S. No.

1442 of 1951. The plaintiff company sued the State of Madras for recovery of a sum of Rs. 7,121-11-4 together with interest at six per cent per

annum on the ground that the sums claimed represented illegal levy of tax claimed by the Government and paid by the assessee. This was resisted

by the Government on various grounds which have been referred to in the judgment of the Principal City Civil Judge. The learned City Civil Judge

ultimately came to the conclusion on the evidence placed before him that the plaintiff was entitled to a refund of Rs. 4,010-3-3 and proportionate

costs. He dismissed the claim of the plaintiff for the balance amount with costs. Both the plaintiff company and the State of Madras have preferred

the appeals, C.C.C.A. Nos. 31 and 35 of 1954 respectively.

2. So far as C.C.C.A. No. 35 of 1954 is concerned, the learned counsel for the State invites my attention to a decision of a Bench of this Court

reported in *State of Madras v. Marshall Sons and Co.* (1954) 2 M.L.J. 188, which has held that an agricultural tractor not being used to convey

anything but being employed only for agricultural operation cannot be said to be a motor vehicle within the meaning of the Madras General Sales

Tax Act, Section 3(2)(1), and therefore the said tractor was not a motor vehicle subject to the additional levy of tax. This decision, the learned

counsel for the State concedes, applies to his appeal and the appeal is therefore not competent in view of the ruling of the Bench. Therefore that

appeal fails and the levy of an additional sales tax on the motor vehicle cannot be sustained. The appeal is, therefore, dismissed but without costs.

3. So far as C.C.C.A. No. 31 of 1954 is concerned, this is covered by a decision reported in *William Jacks and Co., Ltd., Madras v. State of*

Madras [1955] 6 S T.C. 301. In that case a Bench of this Court again held that only such articles the use of which cannot be had except with the

application of electrical energy could be termed electrical goods or appliances and that the article sold had to be sold as a unit in determining if it

comes within the description of the electrical goods and cannot be split up. This Court also observed that for purposes of taxation, the unit of

goods sold should not be impaired and if a machine taken as a whole does not fall within the category of "electrical goods", the component part

thereof, which is not sold as an independent item of goods, cannot be treated as such as the goods sold. In my view, this decision covers the

appeal and, therefore, the appeal in so far as it relates to the levy of tax on electrical goods will have to fail. But the learned counsel for the State

points out that a further item of a refund of tax, namely, a sum of Rs. 546 claimed by the appellant company and levied on a turnover of Rs.

34,947-8-0, is not sustainable in view of the fact that in the plaint itself, it was not stated that the other items related to goods sold outside the State

of Madras. The only piece of evidence that seems to have been relied upon by the plaintiff is Exhibit A-15 and in that exhibit also it has not been

set out that the turnover in respect of which the refund of tax is claimed took place outside the State. In view of the lack of evidence to prove that

the refund claimed relates to goods sold outside the State, it is not possible to entertain the appeal of the company so far as it relates to the refund of Rs. 546. In the result this appeal also has to be dismissed but without costs and it is ordered accordingly.