

Supreme Court of India

State Of Madras vs East India Corporation Ltd. on 7 January, 1971

Equivalent citations: (1972) 4 SCC 303, 1971 III UJ 161 SC

Author: J Shah

Bench: A Grover, K Hegde

JUDGMENT J.C. Shah, C.J.

1. The respondents are dealers in cotton. The Assistant Commercial Tax Officer assessed the respondents to tax for the year 1957-58 on a turn over exceeding Rs. 12 lakhs under the Central Sales Tax Act 1956. The Board of Revenue revised the order delivering the taxable turn over of respondents turnover. In appeal by the respondents against that order in the High Court of Madras it was contended that the transactions of sale were liable to tax Under Section 6 of the Central Sales Tax Act. The High Court, following the judgment of this Court in *The State of Mysore v. Taddalam Lakshminarasimihiah Setty & Sons* 16 S.T.C. 231 held that inter state transactions of the respondents however in cotton were not taxable under the Central Sales Tax Act because under the Madras General Sales Tax Act, 1939, sale of Cotton was taxable at the stage of last purchase. The State of Madras has appealed to this Court against that order.

2. Since the judgment of the Madras High Court was delivered the relevant provisions of the Central Sales Tax Act 1956 have been amended. The president first promulgated the Central Sales Tax (Amendment) Ordinance, 1969 which was substituted by an amending Act passed by the Parliament. The Court in *The State of Kerala v. P.P. Joseph & Co. and Joseph Elias* 25 S.T.C. 483 considered the effect of the enactment of the Central Sales Tax (Amendment) Ordinance, 1969, and observed that "the effect of the Central Sales Tax (Amendment) Ordinance, 1969 is to supersede the judgment of the Supreme Court in *Taddalam's* case (supra). It is now made clear under the Ordinance that even if no tax was leviable under the general sales tax law of the State in respect of interstate transactions of sale, Tax will be leviable under the Central Sales Tax Act, 1956, on sale of goods effected by a dealer in the course of inter-state trade according to the sales tax law of the appropriate state. By Section 9(2) of the Central Sales Tax Act, 1956 as amended by the Ordinance of 1969, the procedural law prescribed by the general sales tax law of the State applies in the matter of assessment, re-assessment, collection and enforcement and payment under the Central Sales Tax Act, but the liability to pay is determined by the provisions of the Central Sales Tax Act. The effect of the amendment of Section 2(j) of the Central Sales Tax Act, 1956, by the Ordinance with retrospective effect from the date on which the principal Act was enacted is that the turnover for the purpose of the Central Sales Tax Act, 1956, has to be determined in accordance with the provisions of that Act and the Rules made thereunder". In view of that ex-position the order passed by the High Court must be set aside. Since the Central Sales Tax Act has been amended with retrospective effect the assessment to tax must be made in the light of the amended provisions. We accordingly direct that the orders passed by the High Court and the departmental authorities are set aside and the transactions of sale in respect of which tax is sought to be levied will be assessed to tax by the Assistant Commercial Tax Officer, Madurai, in the light of the Central Sales Tax Act, 1956, as amended by the Amending act of 1969.

3. The respondents will have liberty to raise all contentions as to the liability to be assessed to tax in respect of the transactions. There will be no order as to costs in this appeal.