

Supreme Court of India

The Sales Tax Officer Xi, ... vs Poonnamal And Ors. on 9 February, 1977

Equivalent citations: AIR 1977 SC 1360, (1977) 4 SCC 599, 1977 40 STC 319 SC

Author: P Bhagwati

Bench: P Bhagwati, R Sarkaria, S M Ali

JUDGMENT P.N. Bhagwati, J.

1. The only question which arises for determination in this appeal by certificate is whether a dissolved firm can be assessed to sales tax in respect of its pre-dissolution transactions. The respondents were at all material times partners in a firm called M/s. Ardhanari Textiles. This firm commenced business in the year 1959 and was dissolved on June 9 1965. The appellant who is the Sales Tax Officer XI, Enforcement Branch Bombay, issued a notice dated March 4, 1966, to the dissolved firm under Section 33 of the Bombay Sales Tax Act, 1959, in respect of the period January 1, 1960, up to September 30, 1965. The respondents thereupon preferred a writ petition in the High Court of Madras challenging the validity of the notice on the ground, inter alia, that since the firm was dissolved it was not competent to the appellant to initiate any proceedings for assessment of the firm. The writ petition was allowed by the High Court relying on an earlier decision given by it in L.V. Veeri Chettiar v. Sales Tax Officer (XI), Enforcement Branch, Greater Bombay, Bombay [1970] 26 S.T.C. 579. The High Court took the view that once a firm was dissolved, there was no provision in the Bombay Sales Tax Act, 1959, for assessing the dissolved firm to sales tax in respect of its prior transactions. The appellant thereupon preferred the present appeal after obtaining a certificate of fitness from the High Court.

2. The question whether a dissolved firm can be assessed to sales tax in respect of its pre-dissolution transactions under the Bombay Sales Tax Act, 1959, came up for consideration before this Court in Murarilal Mahabir Prasad v. Shri B.R. Vad This Court by a majority held in that case that the scheme of the Bombay Sales Tax Act, 1959, and particularly Sections 18 and 19(3) clearly show that, notwithstanding the dissolution of a firm, it can be assessed to sales tax in respect of its pre-dissolution transactions. In view of this decision, the question no longer survives for consideration and we must hold that the appellant was entitled to initiate proceedings for assessment of the firm of M/s. Ardhanari Textiles by issuing notice dated March 4, 1966, under Section 33 of the Bombay Sales Tax Act, 1959.

3. We accordingly allow the appeal, set aside the judgment of the High Court and dismiss the writ petition. There will be no order as to costs.