

In Re: M.D. Devarajulu Naidu and Co.

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Court : Chennai

Decided On : Jan-20-1956

Reported in : (1956)IMLJ457; [1956]7STC265(Mad)

Judge : Somasundaram, J.

Appeal No. : Criminal Revision Case Nos. 696 and 697 of 1955 (Criminal Revision Petition Nos. 656 and 657 of 195

Appellant : In Re: M.D. Devarajulu Naidu and Co.

Advocate for Def. : The State Prosecutor and ; A.C. Muthanna, Adv.

Advocate for Pet/Ap. : V. Thiagarajan, ;B. Santhalingam and ; K.P. Abraham, Adv.

Judgement :

ORDER

Somasundaram, J.

1. The petitioners in the above two petitions have been convicted for not paying the registration fee under Section 8-A, Clause (3), read with Section 15 (b) of the General Sales Tax Act.

2. The petitioner in Criminal Revision Case No. 696 of 1955 is a vegetable merchant and the petitioners in Criminal Revision Case No. 697 of 1955 are fruit

merchants. They are commission agents. Under Section 14-A they are deemed to be dealers within the meaning of the Act. In respect of their business they are liable to be assessed irrespective of the amount of the turnover of the business being less than the minimum specified in Section 3, Clause (3). Under Section 8-B of the Act taxes can be collected only from those who are registered dealers and, therefore, under Section 8-A the petitioners have to get themselves registered whatever the amount of the turnover is, as under Section 14-A they are liable to assessment irrespective of the amount of the turnover.

3. By G. O. Notification No. 710, dated 25th March, 1954, published in the Gazette dated 7th April, 1954, vegetables and fruits are exempted from sales tax. The petitioners are therefore not liable to pay any sales tax, whatever the amount of the turnover. This is so even in the case of business of a non-resident. It is contended that though the petitioners must be deemed to be dealers under Section 14-A, still as they are not liable to pay tax on account of the exemption, there is no need to get themselves registered, then it is asked where is the obligation to pay the registration fee. The contention of the State Prosecutor is that once the dealers get themselves registered under Section 8-A, they can get the registration cancelled only in the manner provided under Section 8-A(2). It seems to me that Section 8-A (2) applies to a case where the sales are ordinarily liable to assessment but not liable to assessment on account of the amount being less than the minimum required for taxation. In a case like the present where the petitioners are not liable at all to assessment on account of the exemption, I do not think it is necessary that they should pay any further fee for registration and apply for cancellation as per Section 8-A (2). As pointed out by Mr. Thiagarajan appearing for the petitioners, the object of registration is to enable the authorities to collect the tax as only from registered dealers taxes can be collected, and when the sales, whatever be the amount, are not liable to assessment, the necessity for registration goes and with it the necessity for paying the annual fee for it. I agree with his contention. So long as the G. O. referred to above is in force and so long as the petitioners are dealers in goods which are exempted from the tax, there is no need for them to get themselves registered or to pay the annual fee for the same. In this view the petitioners are not liable to be convicted for non-payment of the registration fee.

4. The convictions and sentences are set aside and the petitioners are acquitted. The fines, if paid, will be refunded.

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