Jayajothi and Company Vs. State of Madras

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Court : Chennai

Decided On : Jan-28-1969

Reported in : [1969]23STC321(Mad)

Judge : Veeraswami and ;Ramaprasada Rao, JJ.

Appeal No. : Tax Case No. 56 of 1968 (Revision No. 36)

Appellant : Jayajothi and Company

Respondent : State of Madras

Advocate for Def. : S. Mohan, The Assistant Government Pleader

Advocate for Pet/Ap. : C.S. Chandrasekhara Sastri, Adv.

Disposition : Petition allowed

Judgement :

Veeraswami, J.

1. Under these transactions covered by five contracts a total turnover of Rs. 3,05,211.12 has been charged to tax on the basis that they are local sales. The revenue as well as the Tribunal did not dispute or say that there was no inter-State movement of the goods occasioned by the relative contracts which the Tribunal examined. But the Tribunal's view that they are local transactions is rested on the

ground that neither the place of despatch nor any terms regarding the movement of goods has been agreed upon. But the place of despatch is noted in the Tribunal's order itself in the tabulated statement in the case of each of the transactions. It may be that it did not find a place in the contract. That, in our opinion, is of no significance, because what is important is whether there is inter-State movement of goods from one State to the other occasioned by the contract, not that such movement is occasioned from a particular place from out-of-State. The other part of the reasoning of the Tribunal that the terms regarding the movement of goods was not agreed upon, does not appear to be factually correct. The terms of the contract in each of these cases are those recognised by the East India Cotton Association and they are stereotyped. These terms do show that the supply of cotton in fulfilment of the terms of the contract was to be made by movement of the goods from out-of-State into this State. It follows, therefore, that the goods were out-of-State at the time when they were despatched and the contract for their despatch was entered into or when they were appropriated to the contract. It is also clear that the goods moved into this State as part of the terms or under the relative contract. These features establish that the transactions in question were of inter-State character.

2. The tax case is allowed in respect of the said disputed turnover. The petitioner is entitled to costs. Counsel's fee Rs. 100.