

(1991) 07 MAD CK 0054

Madras High Court

Case No: Tax Case No. 459 of 1982 (Revision No. 126 of 1982)

English Electric Co. of
India Ltd.

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision: July 17, 1991

Hon'ble Judges: A.S. Anand, C.J; Kanakaraj, J

Bench: Division Bench

Advocate: N. Inbarajan, for the Appellant; Haja Naziruddin, Additional Government Pleader, for the Respondent

Judgement

Dr. A.S. Anand, C.J.

The assessee is in revision against the order of the Sales Tax Appellate Tribunal (Main Bench), passed in T.A. No. 601 of 1981 on 19th March, 1982.

2. The assessee filed an appeal against the order of the Appellate Assistant Commissioner relating to the assessment for the assessment year 1963-64 under the Central Sales Tax Act, 1956. A turnover of Rs. 18,32,207.05 was assessed as inter-State sales. The estimated turnover was subjected to tax at 2 per cent on Rs. 2,72,633.90 and 10 per cent on Rs. 15,59,573.13. The plea of the assessee that the transactions were branch transfers and not inter-State sale was repelled by all the statutory authorities including the Tribunal. It was found that the goods had been sent to the other State pursuant to the contracts and the goods had not been transferred to branches as claimed by the assessee. The authorities have given cogent reasons to hold that the transactions in the case constituted inter-State sales by the assessee at Madras, as there was a link between the movements of the goods from Madras to reach the buyers in satisfaction of the purchase contract which had occasioned the movement of the goods. In the facts and the circumstances of the case, the findings recorded by the authorities to the effect that the sales were inter-State sales are unexceptionable and do not call for any interference.

3. Learned counsel for the petitioner, faced with this situation, submitted that before the Tribunal an additional ground had been raised supported by an affidavit, but that ground was not properly appreciated. The additional ground which is available on the typed set of papers, inter alia, reads :

"It is submitted that the turnover of Rs. 4,60,925.90 has been taxed in the State of West Bengal, Maharashtra, Delhi and Uttar Pradesh. Under the Central Sales Tax Act, 1956, since the goods were stock transferred to branches in Calcutta, Bombay, Delhi and Lucknow from where they were despatched against inter-State sales to outside State customers."

4. This plea is supported by the affidavit filed by the accountant of the assessee-company. In the first place, it must be borne in mind that the additional ground taken proceeds on the assumption that "the goods were stock transferred to branches in Calcutta, Bombay, Delhi and Lucknow". It has been found by all the statutory authorities, and in our opinion, rightly that the transactions were not stock transferred to the branches, but inter-State sales. Secondly, there is nothing on the record to show that the same goods had been subjected to Central sales tax at the hands of the assessee. The affidavit besides being vague and not supported by any assessment order cannot advance the case of the assessee, because in the affidavit also what is averred to is that the transactions "represent inter-branch transfers", which, as already found, is not the correct position in fact or law. The contention of the learned counsel for the petitioner, therefore fails.

5. In view of the aforesaid discussion and keeping in view the law laid down in [English Electric Co. of India Ltd. and Another Vs. The Deputy Commercial Tax Officer and Others](#), , we find no cause to interfere with the order of the Tribunal. The revision therefore fails and is dismissed, but with no order as to costs.

6. Petition dismissed.