

(2002) 08 MAD CK 0204

Madras High Court

Case No: Writ Petition No. 23261 of 2002 and W.M.P. No. 32064 of 2002

K. Arumuga Mudaliar and Co.

APPELLANT

Vs

Registrar, Tamil Nadu Taxation
Special Tribunal and Another

RESPONDENT

Date of Decision: Aug. 12, 2002

Citation: (2003) 129 STC 141

Hon'ble Judges: R. Jayasimha Babu, J; K.P. Sivasubramaniam, J

Bench: Division Bench

Advocate: R. Mahadevan, for the Appellant; T. Ayyasamy, Special Government Pleader (Taxes), for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

R. Jayasimha Babu, J.

At the stage of admission, we have heard the learned Special Government Pleader (Taxes).

2. It is pointed out that the relevant entry "pens" in entry No. 65(1) in Part B of the Third Schedule to the Tamil Nadu General Sales Tax Act, 1959, includes--according to the clarification issued by the Commissioner which clarification is binding on all his subordinates including assessing officers--"sketch pens" also. The assessment year is 1996-97.

3. The assessee is admittedly a manufacturer of sketch pens. Though the assessee had contended before the Taxation Special Tribunal that the levy of tax on the turnover relevant to "sketch pens" was not taxable, the Tribunal has without advertng to that aspect merely set aside the penalty, and has not said anything at all about the taxability of the item.

4. Learned Special Government Advocate (Taxes) fairly states that the clarification in fact, has been issued by the Commissioner stating that "pens" include "sketch pens". The exemption granted to "pens" therefore, is available in respect of sketch pens as well.

5. It is well-settled that clarifications and orders issued by the Commissioner in terms of the power vested in him under the statute are binding on his subordinates, especially where the orders or instructions are favourable to the assessee.

6. The impugned order of the Tribunal which upheld the assessment with regard to the turnover relating to "sketch pens" therefore, cannot be sustained. The same is set aside. The writ petition is. allowed. Consequently, W.M.P. No. 32064 of 2002 is closed.