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Sohli F. Vakil Vs The State of Bombay

Sales Tax Reference No. 10 of 1958

Court: Bombay High Court

Date of Decision: July 9, 1959

Acts Referred:
Bombay Sales Tax Act, 1953 â€" Section 18

Citation: (1960) 11 STC 358

Hon'ble Judges: Shah, J; S.T. Desai, J

Bench: Division Bench

Advocate: S.P. Mehta and R.V. Patel, for the Appellant; M.J. Mistree, for the Respondent

Judgement

SHAH, J.
The assessees Messrs Sohli F. Vakil purchased on the 19th of December, 1952, a motor car which was brought on that day to

Bombay by one Mohabat Rai from delhi, and delivery of that car was given to the assessees by the vendor in Bombay. On the 22nd of December,

1952, the Delhi Registration Number was changed and the Bombay Registration Number was assigned to the vehicle. The Sales Tax Officer

assessed the assessees to purchase tax u/s 18 of the Bombay Sales Tax (No. 2) Ordinance, 1952, and subjected the transaction to additional tax.

The contention of the assessees that the transaction was not liable to purchase tax was negatived by the Collector of Sales Tax and the Sales Tax

Tribunal. The Sales Tax Tribunal has then referred at the instance of the assessees the following question :

Whether on the facts and circumstances of this case the petitioner was liable to pay the purchase tax u/s 18 of the Bombay Sales Tax (No. 2)

Ordinance, 1952 ?

Section 18 of Ordinance No. 2 of 1952 in so far as it is material reads as follows :-

(1) In the case of such goods, as may be notified by the State Government in the Official Gazette from time to time, which have been despatched

or brought from any place in India outside the State of Bombay and are actually delivered as a direct result of a sale to a buyer in the State of

Bombay for consumption therein the buyer shall be liable to pay the tax on the purchase of goods at the rate of three pies in the rupee .....

* * * *

unless the buyer produces a declaration made by the seller of such goods in the prescribed form certifying that the seller is a registered dealer, or a

licensed dealer, as the case may be, and shall pay the tax on such sale in due course.

2. There is no dispute that the vendor Mohabat Rai is not a licensed or registered dealer. It is also undisputed that motor cars are notified by the

State Government in the Official Gazette as goods liable to purchase tax u/s 18 and the only question which falls to be determined in this reference

is whether on the transaction of sale of the motor car brought from Delhi to Bombay on the 19th of December, 1952, and delivery of which was

taken by the assessees on that day purchase tax was payable. The Tribunal took the view that if a motor vehicle is brought from any place in India

outside the State of Bombay and that vehicle is actually delivered as a consequence of a transaction relating to a sale to a buyer in the State of

Bombay for consumption, on such a vehicle purchase tax is payable. They, therefore, did not decide any question of fact and held the assessees

liable to pay purchase tax.

3. Before us, Mr. S. P. Mehta for the assessees contends that the clause ""as a direct result of a sale"" governs the clause ""which have been

despatched or brought from any place in India outside the State of Bombay"" and also the clause ""actually delivered"". In our view, the contention

advanced by Mr. Mehta must be accepted. The Legislature in our judgment intended that goods to which the Notification applies, which have

been brought into the Bombay State as a direct result of a sale from any place outside the Bombay State and are actually delivered within the State

are liable to purchase tax. If the contention which appealed to the Tribunal is accepted, the expression ""direct"" would have no meaning; and a

vehicle which is actually delivered as a result of a sale many years after it is brought from any place in India into the State of Bombay will also be

liable to pay purchase tax by virtue of clause (1) of section 18. Unless there is any strong indication to the contrary, we will not be justified in

ignoring the expression ""direct"" used by the Legislature. In our view, the expression ""as a direct result of a sale"" governs both the preceding

clauses. Before, therefore, purchase tax in made payable by a purchaser of goods notified by the State Government, it must be established that as

a direct result of a sale the goods had been despatched or brought from any place in India outside the State of Bombay and were actually

delivered to a buyer. In the present case, however, the Tribunal has not decided the question whether the bringing of the vehicle into the Bombay

State was as a direct result of a sale to the assessees.

4. We, therefore, call upon the Tribunal to submit a supplementary statement of fact on the question whether the despatch or bringing of the vehicle

into the Bombay State was as a direct result of a sale to the assessees.

Case remanded.