

(1959) 07 BOM CK 0029

Bombay High Court

Case No: Sales Tax Reference No. 14 of 1958

Satramdas Laxmandas

APPELLANT

Vs

Collector of Sales Tax, Bombay

RESPONDENT

Date of Decision: July 10, 1959

Acts Referred:

- Bombay Sales Tax (Procedure) Rules, 1954 - Rule 16
- Bombay Sales Tax Act, 1953 - Section 14, 15, 23

Citation: (1960) 11 STC 529

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

Bench: Division Bench

Advocate: K.H. Buch and A.A. Razvi, for the Appellant; H.D. Banaji, for the Respondent

Judgement

Shah, J.

We are concerned in this reference with two periods : (1) from 1st November, 1952, to 31st March, 1953, and (2) from 1st April, 1953, to 31st March, 1954. The firm of Satramdas Laxmandas are registered dealers doing business in Bombay as timber merchants. They received a notice dated 17th January, 1955, from the Sales Tax Officer, Licence Circle, V Division, Bombay, calling upon them to attend his office for verification of the books of account. The firm, which will hereafter be referred to as "the assesseees", did not appear before the Sales Tax Officer as directed. The Sales Tax Officer then proceeded to make a "best judgment" assessment. The "best judgment" assessment was sought to be challenged by an appeal to the Additional Collector of Sales Tax and further by approaching the Sales Tax Tribunal. The contention of the assesseees was negatived by the Tribunal and it was held that the assessment was properly made. Thereafter, at the instance of the assessee, certain questions have been referred to this Court for determination.

2. Two contentions have been urged before us by Mr. Buch who appears on behalf of the assesseees : (1) that the notice served upon the assesseees was not a valid

notice as it covered a period exceeding one year, and (2) that the notice was not one under sub-section (3) of section 14 of the Sales Tax Act, 1953, but was one under sub-sections (6) and (7) of section 14, and, therefore, it was invalid. There is no dispute that the assesseees had submitted their returns for the material periods. Thereafter by the notice, dated 17th January, 1955, the assesseees were informed that the Sales Tax Officer desired to satisfy himself that the returns furnished by them in respect of the period 1st November, 1952, to 31st March, 1954, were correct and complete and, therefore, the Sales Tax Officer directed them to attend in person or by an agent authorised in writing at the address mentioned in the notice at 11 a.m. on 3rd February, 1955, and to produce any evidence on which they relied in support of their returns. The assesseees were also required at the same time to produce or cause to be produced their books of account for the period between 1st November, 1952, to 31st March, 1954. Undoubtedly, the period relating to which the books of account were called for and the Sales Tax Officer desired to satisfy himself about the returns was the period between 1st November, 1952, and 31st March, 1954. Mr. Buch contends that the notice under sub-section (3) of section 14 of the Sales Tax Act can be issued for a period covering one year only and not for any period longer or shorter than one year. Sub-section (3) of section 14, in so far as it is material, provides :-

"If the Collector is not satisfied without requiring the presence of a dealer who has furnished his returns or the production of evidence that the returns furnished in respect of any period are correct and complete, he shall serve on such dealer a notice in the prescribed manner requiring him to attend in person or to produce or to cause to be produced any evidence on which such dealer may rely in support of such returns"

3. There is no express provision in this sub-section which requires that the notice must be limited to a period of one year and cannot cover a period longer than one year. We do not think that there is anything in sub-section (3) of section 14 which supports the contention that the notice which the Sales Tax Officer may issue for ensuring satisfaction of the correctness of the returns must be in respect of a period of one year. Mr. Buch relied upon sub-section (1) of section 14 which provides that the amount of the tax from a registered dealer shall be assessed separately for each year during which he is liable to pay the tax. But the mere fact that the assessment has to be in respect of a period of one year does not support the view that the notice issued under sub-section (3) must also be restricted to a period of one year.

4. The second contention also, in our judgment, has no force. It is true that in the notice, which is on a printed form in which some of the blanks are filled in, there is a reference to clauses (6) and (7) of section 14. But from the terms of the notice there can be no doubt that the notice was one which was intended to be issued by the Collector in exercise of the powers conferred by sub-section (3). We do not think that failure to strike out from the printed form words which were inappropriate affects

the validity of the notice.

5. On that view of the case, the answers to the questions will be :-

(1) in the negative

(2) in the negative

(3) not argued

(4) does not arise.

6. The assessee to pay the costs of the Collector of Sales Tax. Costs quantified at Rs. 250.

Reference answered accordingly.