

The connected audit objection is on non-levy of penalty and interest in the case of Sri. K. G. Lawrance. M/s. Geo Sea Food. In this regard notice issued to the dealer on the basis of modified demand.

Thiruvananthapuram,
8th December, 2022.

SUNNY JOSEPH
Chairman,
Committee on Public Accounts.

for rule 28A, the following rule shall be substituted, namely:—

(8) Declaration in respect of sales deemed to be in the course of export under sub-section (3) of section 5 of the Central Sales Tax Act, 1956.—
A dealer who purchases goods from another dealer in circumstances in which the sale to him is to be deemed to be in the course of export under sub-section (3) of section 5 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) shall furnish to the selling dealer the original and duplicate portions of the declaration in Form H prescribed under the Central Sales Tax (Registration and Turnover) Rules, 1957 duly filled in and signed by him or by any responsible person duly authorized by him in this behalf and shall retain the counterpart.

(2) A dealer who claims that a sale is to be deemed to be in the course of export under sub-section (3) of section 5 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), shall attach to his return of turnover for the return period, in Form No. 10, the original portion of the declaration in Form H prescribed under the Central Sales Tax (Registration and Turnover) Rules, 1957 received by him from the purchasing dealer. He shall produce the duplicate portion of it marked for inspection, if the assessing authority directs him to do so.

(3) The supply, use, custody, maintenance of account and validity of the declaration in Form H shall be in accordance with the provisions of rule 11D of the Central Sales Tax (Kerala) Rules, 1957.

(9) for rule 30 the following rule shall be substituted, namely:—

30. Payment of tax at compounded rates.—(1) Every dealer eligible to pay turnover tax at compounded rate under section 7, who desires to exercise the option provided for under the said section may apply to the assessing authority concerned for permission to pay turnover tax at the rates specified therein in Form No. 21 on or before the 30th day of April of the year to which the option relates or along with the application for registration under the Act, whichever is later.

Provided that the assessing authority may admit an application filed after the prescribed date for good and sufficient reasons to be recorded in writing.

Provided further that the application relating to the year 2005-2006 shall be filed with the Assessing Officer from the date on which the Kerala General Sales Tax (Amendment) Rules, 2006 is published.

(2) (i) If the assessing authority is satisfied that the application filed is in order, it shall grant the permission in Form No. 22.

(ii) If the application filed is not in order, the assessing authority shall reject the application for reasons to be recorded in writing, after giving the dealer an opportunity of being heard.

(10) The dealer shall submit along with the monthly liquor made during the month goods, quantity and purchase bill/invoices.

(10) rule 30A shall be

(11) in rule 32, sub-rules (15A) shall be omitted.

(12) rule 59A shall be

(13) after Form No. 9 the following forms shall be inserted, namely:—

"KERALA GENERAL SALES TAX RULES, 1963

Form No. 10

ACKNOWLEDGMENT FOR RECEIPT OF RETURN

[See Rule 21 B (1)]

Office Address

Date:

R.C. No.

To

Name and Address of the dealer

The undersigned hereby certifies that the return in Form No. 9 furnished by you for the period specify month/quarter.

Seal

3/1317/2006/DTP

Signature and designation of the assessing authority.

tion is granted under sub-rule (2) shall Form No. 9 a statement of purchases of invoice number and date, particulars of and with photocopies of the

(13C), (14), (14A), (14AA), (14C) and

Annexure II

Vilasini v. State of Kerala (S. Sankarasubban, J.)

2001

The impugned order is passed under S. 438 of the Criminal Procedure Code. No appeal is provided under the Criminal Procedure Code. Therefore, we are of opinion that registry is right in holding that the appeal is not maintainable and appeal need not be numbered. In view of our finding that appeal is not maintainable, we are not considering the merits of the case or correctness of the view taken by the learned Single Judge. The appeal is, therefore, dismissed.

2001 (1) KLT 320

Hon'ble Mr. Justice S. Sankarasubban &
Hon'ble Km. Justice A. Lakshminikutty

Vilasini v. State of Kerala

General Sales Tax Act, 1963 (Kerala), Schedule I Entry 87 - Soda and
sold as second sales are not taxable.

According to petitioner, this case is governed by Entry 87 of Schedule I of the K.G.S.T. Act, 1963. As per Entry 87 which stood at the relevant time the commodities are taxable only on first sale. Here admittedly there is second sale. The learned Government Pleader was not to submit that the item is not fall under Entry 87. Hence we are of the view that the order by the assessing authority confirmed the appellate authority and modified by the Tribunal is wrong. The assessment orders are set aside.

K. Reghu Kottappuram

For Petitioner

Government Pleader (V.V. Ashokan)

For Respondent

JUDGMENT

S. Sankarasubban, J.

This TRC is filed against the judgment in T.A. Nos. 427 to 429 of 1999-2000 and 247/97. The petitioner is an assessee under the Kerala General Sales Tax Act in respect of the business turnover in Yamuna Tourist Home, Adoor. The petitioner is assessed for sales tax for the assessment years 1990-91, 1991-92, 1992-93 and 1993-94 by the Additional Sales Tax Officer, Adoor fixing assessable turnover as Rs. 11,50,330 for the year 1990-91, Rs. 14,16,925/- for the year 1991-92, Rs. 17,30,100/- for the year 1992-93 and Rs. 21,50,790/- for the year 1993-94. The assessments were made on estimate rejecting the returns filed and accounts produced for the

T.R.C. No. 211 of 2000

Decided on 30th November, 2000

Sankaran v. Karthiyani Amma (*D. Sreedevi, J.*)

The petitioner filed 4 appeals against the said assessment. The appellate authority modified the assessment for the first three years to some extent and dismissed the appeal for the 4th year confirming the assessment order in toto. The petitioner filed an appeal before the Appellate Tribunal. True copy of the order of the Tribunal is placed in this case as Annexure I. The finding of the Tribunal was as follows:

The main dispute is that sodas and cola sold by the appellant are second sales and hence taxable at her hands. But, as per specific entries in the schedule, beverages sold in bar and hotel are taxable and the assessing authority has taken into account this aspect in assessing the turnover of soda and cola as taxable at the appellant's hands. We see no materials to interfere with this finding.

In coming to petitioner, this case is governed by Entry 87 of Schedule I of the K.G.S.T.

As per Entry 87 which stood at the relevant time the commodities are taxable only at the first sale. Here admittedly there is second sale. The learned Government Pleader was not able to submit that the item is not fall under Entry 87. We are of the view that the order made by the assessing authority confirmed by the appellate authority and modified by the Tribunal is wrong. The assessment orders are set aside.

Costs allowed.

2001 (1) KLT 321

Hon'ble Mrs. Justice D. Sreedevi

Sankaran v. Karthiyani Amma

Mortgage Act, 1963, S.5 - Acknowledgment must be in writing and signed by mortgagor making it - Mere narration of the previous mortgage that had been made on the property is not sufficient for acknowledgement of liability.

In the document he has admitted that he is holding the property under the mortgage deed in his favour. The Apex Court in *Tilak Ram v. Nathu* (AIR 1967 SC 935) held that the terms made in the assignment deed that the assignor is holding the property under the mortgage deed does not amount to acknowledgement as there is nothing in the document to show that the assignment was made with the intention of admitting the legal relationship with the mortgagee. In Ext. B2 there is no acknowledgement of liability to be redeemed. Therefore Ext. B2 cannot be considered to be an acknowledgement of liability. Another document relied upon is Ext. B3 sale deed executed by Pathamma in favour of Sankaran Chettiar. Pathamma had

Annexure III

IN THE HIGH COURT OF KERALA AT ERNACULAM

Present:

The Hon'ble Mr. Justice M. Rameshchandran

Thursday, the 5th day of July, 2001/14th Aghadha, 1921.

O.P. No. 19790/2001-E

PETITIONER :

Cochin Port Trust,
Willingdon Island,
Kochi 682 009,
represented by its J.A. & C.A.O.
Mr. G. Krishnan Nair.

By Advocates W/a. G. V. Rameshchandran Nair,

Verapuzha, A.K.

Anil D. Nair.

RESPONDENTS:

1. Assistant Commissioner
(Asstt) II, Special Circle, Mattancherry.
2. Deputy Commissioner of Commercial Taxes (Appeals),
Ernakulam.

R1 & R2 by Govt. Pleader Sri. G.E. Unnikrishnan.

Petition filed under Article 226 of the Constitution of India, praying that this Hon'ble Court be pleased to :

- i) to call for the records referred to Ext. P3 order and quash the same by issuing writ of certiorari,
- ii) to issue a writ of ~~certiorari~~ or such other writ, direction or order directing the respondent to dispose of Ext. P2 appeal as expeditious as possible,
- iii) pending hearing and final disposal of this Hon'ble Court be pleased to grant stay of recovery of balance tax due under Ext. P1 Assessment order and
- iv) to grant such other reliefs which this Hon'ble Court may deem fit on the facts and circumstances of the case and to allow the accompanying G.M.P. in the O.P.

This Original Petition having come up for admission on 5.7.2001, the Court on the same day delivered the following:

M. N. RACHANDRAN, J.

O. P. NO. 19780 OF 2001 E

Dated this the 6th day of July, 2001.

J U D G M E N T

Against the assessment order, an appeal has been filed as Ext. P1. Ext. P3 order has been passed by the second respondent Deputy Commissioner of Commercial Taxes (Appeals), Advocate Sri. C. N. Ramachandra Nair appearing for the petitioner relies on a decision reported in State of Tamil Nadu and another v. Board of Trustees of the Port of Madras (1999 114 STC 520) and canvasses the position that this was a case where assessment itself was unwarranted. He also submits that sufficient opportunity had not been afforded to the assessee in the proceedings.

In the aforesaid circumstances and in view of the reliance placed on the decision, I direct that (a) such time as the matter is finally heard Ext. P1 assessment order is not to be enforced. The appellate authority is to finally hear the appeal, taking note of the document as quoted above and any other circumstances

6 843

843

:2:

that might be placed by the parties.

The Original Petition is disposed of with the above direction;

nbs/

(M. RAMACHANDRAN, JUDGE)



Handwritten signature or initials.

ORDER ON CMP No. 32090/2001 in D.P. No. 19790/2001-2
Closed

5.7.2001

Sd/- M. Ramachandran, Judge.

APPENDIX

PETITIONER'S EXHIBITS:

- Ext. P1: True copy of the assessment order issued by the 1st respondent for 1996 - 97 to the petitioner dated 28.3.2001
- Ext. P2: True copy of the appeal filed by the petitioner before the 2nd respondent dated 23.4.2001
- Ext. P3: True copy of the order issued by the 2nd respondent to the petitioner dated 28.6.2001
- Ext. P4: True copy of the order issued by the 2nd respondent to the petitioner for 1995 - 96 dated 2.11.2001

RESPONDENTS EXHIBITS:

Nil

dpk.

/true copy/

P.S. to Judge.

True Copy

Kamath

Annexure IV



GOVERNMENT OF KERALA
Finance (Secret Section) Department
CIRCULAR

No. 99/2010/Fin.

Dated, Thiruvananthapuram, 30th November, 2010.

Sub: Revenue Collection—Details called for—Instructions—Issued—Reg.

The Public Accounts Committee (2006-2008) has observed in its Seventy Fifth Report that the monthly report of revenue collections are not being submitted by the Controlling Officers to the Chief Controlling Officers concerned/ Finance Department in time.

2. Article 11, Chapter II, Vol. I of Kerala Financial Code insists that Heads of Departments in charge of important sources of revenue should keep the Finance Department fully informed of the progress of collection of revenue under their control and of important variations in such collections as compared with the Budget Estimates. As per para 74 (2) and (3) of the Kerala Budget Manual, reconciliation of departmental figures of revenue with books of the treasury and the Accountant General has to be completed before the close of the financial year. It has been observed that these instructions are not being followed strictly.

3. In order to enable the Finance Department to periodically review the revenue mobilisation, all the revenue earning departments are directed to submit to the Finance (Secret Section) Department in the pro forma appended the monthly Demand Collection Balance (DCB) statements and revenue collection details vis-a-vis budget estimates/targets as envisaged in Article 11, Chapter II, Vol. I of KFC and also the progress in monthly reconciliation of figures of revenue receipt in respect of the heads of account for which they are Controlling Officers, as required in para 74 (2) and (3) of the Kerala Budget Manual.

4. The Heads of revenue earning departments are instructed to comply with these instructions scrupulously and to send the statements pertaining to each month by 10th of the succeeding month without fail.

Dr. A. K. Dossy,
Principal Secretary (Finance).

- To
- The Principal Accountant General (Asstt), Kerala, Thiruvananthapuram.
 - The Accountant General (Accounts & Entitlements), Kerala, Thiruvananthapuram.
 - All Heads of Departments and Offices.
 - All Departments (Sections of Secretariat).
 - All Secretaries, Additional Secretaries, Joint Secretaries, Deputy Secretaries and Under Secretaries to Government.
 - The Additional Secretary to Chief Secretary.
 - The Director of Treasuries, Thiruvananthapuram.
 - The Director of Public Relations, Thiruvananthapuram.
 - The Stock File/Office Copy.

Comparison of Revenue Collection (Rs. in crore)

Name of Department :

Period	Amount (Rs. in Crore)					
	Preceding Year-5	Preceding Year-4	Preceding Year-3	Preceding Year-2	Preceding Year-1	Current Year
During April						
Cumulative till 30 April						
During May						
Cumulative till 31 May						
During June						
Cumulative till 30 June						
During July						
Cumulative till 31 July						
During August						
Cumulative till 31 August						
During September						
Cumulative till 30 September						
During October						
Cumulative till 31 October						
During November						
Cumulative till 30 November						
During December						
Cumulative till 31 December						
During January						
Cumulative till 31 January						
During February						
Cumulative till 28 February						
During March						
Cumulative till 31 March						

GCTT: 44827/2010/D77



SHRI. NARAYANA
Section Officer
Name Department

Financial Year

Budget Estimate/Target for the Year

Revised Budget Estimate/Target for the Year

Month	Collection for the month	Cumulative collection till the end of the month	Percentage of Collection	Amount of Arrears under Stay Order (during the month)			Unpaid of Court	Under Stay of Department	Grand Total	Status of reconciliation	
				Issued By Court	Issued By Department	Total				With Treasury	With AG
April											
May											
June											
July											
August											
September											
October											
November											
December											
January											
February											
March											
Grand Total											


 HANVISH A
 Joint Officer
 Assistant Secretary