

SUPREME COURT OF INDIA

Sales Tax Officer XI. Enforcement Branch, Greater Bombay

Vs.

V. Poonnamal

C.A.No.594 of 1972

(P. N. Bhagwati, R. S. Sarkaria and S. Murtaza Fazl Ali, JJ.)

09.02.1977

JUDGEMENT

BHAGWATI, J.:-

1. The only question which arises for determination in this appeal by certificate is whether a dissolved firm can be assessed to sales-tax in respect of its pre-dissolution transactions. The respondents were at all material times partners in a firm called M/s. Ardhanari Textiles. This firm commenced business in the year 1959 and was dissolved on 9th June, 1965. The appellant who is the Sales Tax Officer XI. Enforcement Branch, Bombay, issued a notice dated 4th March, 1966 to the dissolved firm under S. 33 of the Bombay Sales Tax Act, 1959 in respect of the period 1st January 1960 upto 30th September, 1965. The respondents thereupon preferred a Writ Petition in the High Court of Madras challenging the validity of the notice on the ground inter alia that since the firm was dissolved it was not competent to the appellant to initiate any proceedings for assessment of the firm. The Writ Petition was allowed by the High Court, relying on an earlier decision given by it in L. V. Veeri Chettiar v. Sales Tax Officer Bombay, (1970) 26 STC 579 : (AIR 1971 Mad 155). The High Court took the view that once a firm was dissolved, there was no provision in the Bombay Sales Tax Act 1959 for assessing the dissolved firm to sales tax in respect of its prior transactions. The appellant thereupon preferred the present appeal after obtaining a

certificate of fitness from the High Court.

2. The question whether a dissolved firm can be assessed to sales-tax in respect of its pre-dissolution transactions under the Bombay Sales Tax Act, 1959 came up for consideration before this Court in *Murarilal Mahabir Prasad v. Shri B. R. Vad*, (1976) 1 SCR 689 : (AIR 1976 SC 313). This Court by a majority held in that case that the Scheme of the Bombay Sales Tax Act, 1959 and particularly Ss. 18 and 19(3) clearly show that, notwithstanding the dissolution of a firm, it can be assessed to sales tax in respect of its pre-dissolution transactions. In view of this decision, the question no longer survives for consideration and we must hold that the appellant was entitled to initiate proceedings for assessment of the firm of M/s. Ardhanari Textiles by issuing Notice dated 4th March, 1966 under S. 33 of the Bombay Sales Tax Act 1959.

3. We accordingly allow the appeal, set aside the judgment of the High Court and dismiss the Writ Petition. There will be no order as to costs.

Appeal allowed.