(1996) 11 SC CK 0211

In the Supreme Court Of India

Case No : Civil Appeals No. 1500 Of 1985 With Nos. 3118-3119 Of 1985

A. Subramanyam (Dead) by Lrs. APPELLANT

Vs

State of T.N. RESPONDENT

Date of Decision : 27-11-1996

Acts Referred:

Citation : (1997) 2 SCC 353

Hon'ble Judges : S. P. Bharucha, J;S. C. Sen, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. The question in this case is whether velavellan wood and karuvellan wood supplied by the assessee to Seshasayee Paper and Boards Limited, Pallipalayam and other companies for manufacture of pulp can be said to be firewood and, as such, exempt from sales tax. The tribunal held that the kind of wood supplied by the assessee to Seshasayee Paper and Boards Limited, Pallipalayam was only suitable for making wood pulp and that it could not in any sense be treated as firewood. The decision of the tribunal was challenged in revision before the High court. The High court held that the wood supplied by the assessee to Seshasayee Paper and Boards Limited, Pallipalayam was timber and not firewood because the supply was made for the manufacture of pulp. It is not in dispute that it was only sale of firewood which was exempted from sales tax by a notification issued under Section 17 of the Tamil Nadu General Sales Tax Act, 1959 and the timber supplied for manufacturing pulp cannot come within the scope of the exemption granted by the government. The High court following the decision in A.H.K. & Co. v. State of T.N. came to the conclusion that even though in the agreement the parties described the wood as firewood, the supply of wood was for making pulp. The agreement clearly indicated that neither of the two parties intended that the timber should be used as firewood. The High court held that these goods could not be called firewood at all and were not exempt from tax. From the contract between the purchaser and the seller, it appeared that the goods were required

by the purchaser for the purpose of manufacturing rayon.

2. Before us, it has been argued that the goods sold by the petitioner were indisputably of the character of firewood, and will have to be treated as firewood regardless of the use to which the goods have been put. Even though firewood was sold for the purpose of manufacturing rayon, the firewood will not by that process lose its essential character of firewood.

3. We are unable to uphold this argument. The wood sold by the appellant may be used and described as firewood. But when it was sold with the object of being converted into pulp for manufacturing rayon, it was not being sold as firewood at all. The exemption is granted to firewood meant to be as firewood. The exemption cannot be extended to sales of wood for manufacture of rayon even though such wood is capable of being used as firewood and is generally used as such. The exemption is obviously for the benefit of people who buy or sell firewood for the purpose of using the same as firewood. This exemption is not for the benefit of persons who sell wood for manufacture of rayon pulp.

4. We are of the view that the High court has come to a right decision in this case. The appeals are dismissed.

5. There shall be no order as to costs.