(2002) 04 RAJ CK 0032

In the Rajasthan High Court

Case No : Sales Tax Revision No. 335 of 1999

Commercial Taxes Officer — APPELLANT

Vs

Venus Paints — RESPONDENT

Date of Decision : 23-04-2002

Acts Referred:

Rajasthan Sales Tax Act, 1954 — Section 5(1)

Citation : (2006) 143 STC 687

Hon'ble Judges : Rajesh Balia, J

Bench : Single Bench

Advocate : N.C. Goyal, for the Appellant; Vivek Singh, for the Respondent

Final Decision : Dismissed

Judgement

Rajesh Balia, J.—The only question raised in this revision is whether a unit which has been found eligible for sales tax exemption under the Incentive Scheme, 1989, is still liable to pay tax on sale of packing material in which the goods manufactured by the unit is packed or contained and which has been purchased by the assessee as an exempted goods and is liable to tax in view of last proviso to Section 5(1) of the Rajasthan Sales Tax Act, 1954 ?

2. Both the learned counsel invited my attention to the two decisions of this Court in Assistant Commercial Taxes Officer v. Hindustan Granites (S.B. Sales Tax Revision No. 1191 of 1999, decided on January 4, 2000) reported in 23 Tax World 398 and a Bench decision in Udaipur Distillery Co. Ltd. v. Rajasthan Taxation Tribunal [2003] 132 STC 489 : (2000) 28 RTJS 83.

3. In both the cases, it has been held that when goods are sold contained in packing material to which the incentive scheme applies and the assessee is entitled to claim exemption, the packing material cannot be brought to tax by invoking the last proviso to Section 5(1) of the Rajasthan Sales Tax Act, 1954 as the property in packing material passes only incidentally and not principally, and the sale of the principal commodity cannot be split into two.

4. In view of the aforesaid two judgments, this revision petition by the Revenue, requiring this Court to hold otherwise, is dismissed.

