(1971) 10 MP CK 0004

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No. 140 of 1971

Commissioner of Sales Tax APPELLANT

Vs

N.M. Dubash and Co. RESPONDENT

Date of Decision : 27-10-1971

Acts Referred:
Madhya Pradesh General Sales Tax Act, 1958 — Section 7(1)

Citation : (1972) JLJ 427 : (1972) 17 MPLJ 529 : (1972) MPLJ 529 : (1973) 30 STC 118

Hon'ble Judges : Bishambhar Dayal, C.J;R.J. Bhave, J

Bench : Division Bench

Advocate : M.V. Tamaskar, for the Appellant; V.S. Dabir and A.P. Tare, for the Respondent

Judgement

Bishambhar Dayal, C.J.

This is a reference u/s 44 of the M. P. General Sales Tax Act at the instance of the Commissioner of Sales Tax. The assessee, M/s. N. M. Dubash & Co., is a registered dealer engaged in the manufacture and sale of lime. In the course of its business, it purchased bamboo baskets for the purpose of carrying the stone from the quarry to the kiln. The question was whether the purchase price of these baskets was liable to tax u/s 7(1) of the M. P. General Sales Tax Act. The question referred is as follows :

Whether under the facts and circumstances of the case, the bamboo baskets purchased from unregistered dealers used in carrying limestone to kilns will not attract purchase tax u/s 7(1) of the M. P. General Sales Tax Act, 1958?

The assessment relates to the period from 1st April, 1961, to 31st March, 1962. Entry No. 48 in Schedule I to the M.P. General Sales Tax Act was amended by Act No. 18 of 1960 with effect from 1st July, 1960, and reads as follows :

48. Utensils made of bamboo, e.g., dauri, supa, etc. (nkSjh] lqik] bR;knh)"

These articles were, therefore, exempted from any tax under the Act. Bamboo baskets are dauri made of bamboo or, as described in the entry quoted above, are "utensils made of bamboo". They were, therefore, exempt from tax in the year in question. No tax was, therefore, leviable u/s 7(1) of the M. P. General Sales Tax Act during that year.

Our answer to the question, therefore, is that on the facts and circumstances of the case the bamboo baskets purchased from unregistered dealers used in carrying limestone to kilns will not attract purchase tax u/s 7(1) of the M. P. General Sales Tax Act, 1958. The assessee will get its costs of this reference. Counsel''s fee is fixed at Rs. 100.

