(1980) 03 MP CK 0020

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No. 136 of 1976

Govindram Chatramal APPELLANT

Vs

Commissioner of Sales Tax RESPONDENT

Date of Decision : 14-03-1980

Acts Referred:
Madhya Pradesh General Sales Tax Act, 1958 — Section 43

Citation : (1984) 55 STC 350

Hon'ble Judges : G.P. Singh, C.J;S.J. Surana, J

Bench : Division Bench

Advocate : Suresh Kumar, for the Appellant; Swamisaran, Government Advocate, for the Respondent

Judgement

G.P. Singh, C.J.—This is a reference made by the Sales Tax Appellate Tribunal referring for our answer the following questions of law :

(1) Whether or not conversion of paddy into rice and conversion of other grains into dal is manufacture of other goods which are different from either paddy or the whole grain, as the case may be ?

(2) Whether on the facts and circumstances of the case, the failure of the assessee to disclose in the quarterly returns purchases of the value of Rs. 8,69,778.71 amounts to concealment of a turnover assessable to purchase tax, and therefore, liable to be penalised u/s 43 of the M. P. General Sales Tax Act, 1958 ?

2. The period with which we are concerned in this case is from 4th November, 1964, to 24th October, 1965. The answer to the first question is concluded by the decision of a Division Bench of this Court in Laxmi Chand Badri Narain Vs. The Commissioner of Sales Tax, M.P., . It was held in that case that dehusking of paddy into rice and conversion of other grains into dal amounts to manufacture of rice and dal.

3. As regards the second question, Section 43 as it stood at the relevant time,

provided for imposition of penalty in case "a dealer has deliberately concealed his turnover or aggregate of the amount of purchase prices in respect of any goods or furnished a false return". It is clear from a bare reading of Section 43 that the concealment of turnover or the aggregate of the amount of purchase prices and furnishing of a false return, to fall within the ambit of this section, must be accompanied with mens rea. If the assessee had a bona fide doubt whether the purchases of paddy and other grains were taxable or not and for this reason if he did not show the purchases in the return, it cannot be said that there was any mens rea making the assessee liable for penalty. There is no finding whatsoever of deliberate concealment or intentional filing of a false return. Indeed, there is an implied finding in the statement of case that the assessee was in doubt as to whether conversion of paddy into rice and other grains into dal amounted to manufacture. It is, however, pointed out that the assessee should have adopted the course of showing in the return the figures of purchases with a claim for exemption from purchase tax. This is an advice of prudence. Simply because the assessee was not prudent enough, he cannot be held liable for penalty.

4. Our answers to the questions referred are as follows :

(1) The conversion of paddy into rice and other grains into dal amounts to manufacture.

(2) The failure of the assessee to disclose in its returns purchases of paddy and other grains of the value of Rs. 8,69,778.71 did not amount to concealment of turnover making it liable for penalty u/s 43.

There will be no order as to costs of this reference.

