(1984) 02 KAR CK 0022

In the Karnataka High Court

Case No : S.T.R.P. No. 91 of 1980

Mahendra Perfumery Works — APPELLANT

Vs

State of Karnataka — RESPONDENT

Date of Decision : 08-02-1984

Acts Referred:
Karnataka Sales Tax Act, 1957 — Section 6

Citation : (2000) 74 STC 118

Hon'ble Judges : S.R. Rajasekhara Murthy, J;Jagannatha Shetty, J

Bench : Division Bench

Advocate : S.G. Shivaram, for K. Srinivasan, for the Appellant; D. Bhoopathy, High Court Government Pleader, for the Respondent

Judgement

S. Rajashekhara Murthy, J.—This arises out of the order of the Tribunal dated September 27, 1979 in S.T.A. No. 177 of 1979.

2. The assesses-firm are manufacturers and dealers in agarbathi. The firm was assessed to tax u/s 6 in respect of its purchase turnover in raw agarbathis for the year 1975-76. Assessee challenged this assessment in appeal before the Deputy Commissioner of Commercial Taxes as also in further appeal before the Tribunal and both the appellate authorities confirmed the assessment of the disputed purchase turnover. Being aggrieved by the order of the Tribunal, the assessee has come up by way of this revision petition.

3. The disputed turnover relates to the purchases of raw agarbathi by the assessee from unregistered dealers. The said raw agarbathis are subjected to further processing by the assessee by dipping them in scented solution so as to bring out a new product of different grades and standards for being marketed as scented agarbathis. The assessing officer, being satisfied that the provisions of section 6 was applicable to the case, brought the said purchase turnover to tax.

4. The contention of the assessee before us is that the agarbathis purchased by the assessee did not undergo any change nor has it been consumed in the

manufacture of another product. What was purchased is raw agarbathi and has been commercially marketed as agarbathi with a little scented coating and therefore, there is no consumption of the raw agarbathis in the process. In support of his contention he has relied upon the decision of the Supreme Court reported in Deputy Commissioner of Sales Tax (Law), Board of Revenue (Taxes), Ernakulam v. Pio Food Packers [1980] 46 STC 63. We do not think that the decision is of no assistance to the case of the assessee. In fact, in our opinion, that decision is very much against the assessee. Therein it was observed at page 65 thus :

"There are several criteria for determining whether a commodity is consumed in the manufacture of another. The generally prevalent test is whether the article produced is regarded in the trade, by those who deal in it, as distinct in identity from the commodity involved in its manufacture. Commonly, manufacture is the end result of one or more processes through which the original commodity is made to pass. The nature and extent of processing may vary from one case to another, and indeed there may be several stages of processing and perhaps a different kind of processing at each stage. With each process suffered, the original commodity experiences a change. But it is only when the change, or a series of changes, take the commodity to the point where commercially it can no longer be regarded as the original commodity but instead is recognised as a new and distinct article that a manufacture can be said to take place."

In the instant case it cannot be said that the raw agarbathi still retained its original identity so as not to attract section 6 of the Karnataka Sales Tax Act, 1957. What has been marketed as agarbathi as a commercial commodity by the assessee is not the very same raw agarbathi by the assessee. What was purchased by the assessee was nothing but raw material and that raw material after being processed with addition of scent and other chemicals, would result in a different product, commercially known as agarbathi. It must, therefore, be concluded on facts, that the original goods purchased by the assessee have been consumed in the manufacture of agarbathi. We are therefore of the opinion that the authorities below have arrived at a correct conclusion.

5. In the result, the petition fails and is dismissed. In the circumstances of the case we make no order as to costs.

6. Petition dismissed.