
(2009) 04 MAD CK 0498

In the Madras High Court

Case No : Tax Case (Appeal) No. 2234 of 2008

N. Somasundaram

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 30-04-2009

Acts Referred:

Citation : (2010) 33 VST 474

Hon'ble Judges : M.M. Sundresh, J;K. Raviraja Pandian, J

Bench : Division Bench

Advocate : None, for the Appellant; Haja Nazirudeen, Special Government Pleader (T), for the Respondent

Final Decision : Dismissed

Judgement

K. Raviraja Pandian, J.—This appeal is filed by the appellant/assessee aggrieved by the order of the Joint Commissioner III (SMR) of Commercial Taxes, Madras dated March 13, 1995 in his Ref. No. TI/34193/90.

2. The appellant is a registered dealer in groundnut kernel and an assessee on the file of the Deputy Commercial Tax Officer-I, Mayiladuthurai. For the assessment year 1988-89, the assessing authority has assessed to tax the turnover relating to groundnut kernel by his proceedings dated November 30, 1989 on the ground that the groundnut kernel is not a vegetable seed and as per the order of the Tamil Nadu Sales Tax Appellate Tribunal, Main Bench, made in TA 252/85 to 255/85 read along with G.O. Ms. No. 1216 dated October 30, 1981, the assessee preferred an appeal before the Appellate Assistant Commissioner, Cuddalore and contended that the exemption is available to the assessee, who allowed the appeal by his order dated March 2, 1990. The Joint Commissioner of Commercial Taxes, by his proceedings dated March 30, 1995, revised the order of the first appellate authority. The correctness of the same is now canvassed before us.

3. Heard the learned Counsel on either side and perused the materials available

on record.

4. The one and the only ground urged in the grounds of appeal is that the groundnut kernel sold by the assessee could be regarded as a vegetable seed so as to have the benefit of exemption notification.

5. As could be seen from the order of the Joint Commissioner, the notification dated April 22, 1960 exempted vegetable seeds, fruit plants, flower seeds and flower plants from taxation with effect from April 1, 1960. The said notification was subsequently revised by notification dated October 30, 1981. There is no much difference between the two notifications. The notification exempted vegetable seeds, fruit plants, flower seeds and flower and flower plants in a group. It could be evident from the reading of the notification that the seeds sold should be for the purpose of cultivation. There is no evidence to prove that the groundnut kernel was sold for the purpose of cultivation by the assessee. It is common knowledge that in commercial circle, groundnut is dealt with as an oil-seed and used for manufacture of groundnut oil. If at all the kernel can be classified as oil-seed and not as a vegetable seed. The Joint Commissioner has taken pain to find out the meaning of "vegetable" from Oxford Dictionary and Websters International Dictionary and also took into consideration the ratio laid down by the Supreme Court in Avadh Sugar Mills Ltd. v. Sales Tax Officer, Sitapur [1973] 31 STC 469 and has come to the conclusion that the groundnut kernel dealt with by the assessee cannot be regarded as a vegetable seed suitable for reproduction and regenerating vegetable. Vegetable can be popularly understood as which are grown in kitchen garden or farm and used for dining purpose on table. Though groundnut is used for edible purpose, it could at no stretch of imagination be a vegetable in the popular sense. Consequently, the groundnut kernel cannot be regarded as a vegetable seed, but could only be regarded as oil-seed and therefore, exemption notification pertaining to vegetable seed cannot be made applicable to the transaction made by the assessee which is only in respect of groundnut kernel.

6. For the aforesaid reasons, the appeal deserves no merit consideration and it is therefore dismissed. No costs.