courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 19/08/2026

(2000) 08 KL CK 0044

In the High Court Of Kerala

Case No : T.R.C. No. 238 of 2000

N.D. Narayanan Nambiar — APPELLANT

Vs

State of Kerala — RESPONDENT

Date of Decision : 28-08-2000

Acts Referred:

Citation : (2001) 121 STC 537

Hon'ble Judges : S. Sankarasubban, J;A. Lekshmikutty, J

Bench : Division Bench

Advocate : K.B. Mohamed Kutty, for the Appellant; The Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

S. Sankarasubban, J.—The assessee is the revision-petitioner. The assessment year is 1989-90. The question for consideration arises in this case is whether the mosquito repellant is an electrical item. The assessee filed return showing the total turnover amounting to Rs. 91,888 regarding mosquito repellants. It was assessed as an unclassified item taxable at the rate of 5 per cent at all points. According to assessee, the mosquito repellant is an electrical instrument used for repelling mosquitos. The mosquito mats are placed on the instrument worked by electrical energy. It is an item falling under entry 67 of the First Schedule to the Kerala General Sales Tax Act, 1963. The relevant entry is as follows :

67. Electrical goods (other than those specifically mentioned in this Schedule), instruments, apparatus, appliances including fan and lighting bulbs, electrical earthenwares and porcelain and all other accessories and component parts, either sold as a whole or in parts.

2. All the authorities have held that it is not an electrical goods coming under the First Schedule to the Kerala General Sales Tax Act. So the question for consideration is whether the mosquito repellant working on electrical energy is electrical goods. It is a well-known principle that if the definition of a particular

expression is not given in the statute, it must be understood in its popular or common sense, that is, in the sense how the expression is used every day by those who use or deal with those goods. It is not merely the use'' to which a commodity is put. Normally by electrical goods we mean the goods we obtained from an electrical shop. There may be many goods or things which can be operated by using electrical energy. But in a popular sense no one will say that it is an electrical goods. They are goods. For example, a refrigerator is working on electricity. In common parlance it is not treated as electrical goods. So also the grinder and the mixies. The question whether a particular commodity will come under the definition of electrical goods are not has come up for consideration before this Court. In Deputy Commissioner of Sales Tax (Law), Board of Revenue (Taxes) Vs. Anand Wire and Allied Industries, the question arose whether the stay-wires used for supporting electric posts are come under the definition of electrical goods. This Court held that it does not come under the electrical goods. This Court after referring to many decisions held as follows :

"Intrinsically, the goods in question must be electrical goods and, secondly, their use cannot be had without electrical energy. Merely because an article cannot be used without electricity, it may not be decisive. It is necessary that, apart from that fact, the article, by its very nature, answers the description of ''electrical goods''."

This decision was upheld by the Supreme Court in Deputy Commissioner of Sales Tax v. Anand Wire & Allied Industries [2000] 117 STC 149(all) : (1999) 3 KLT 30. In one of the earliest cases William Jacks and Co. Ltd. v. State of Madras [1955] 6 STC 301 the Madras High Court said that it was "neither possible nor desirable" to prepare "an exhaustive list" of electrical goods. "Nor was it possible to devise a formula of universal application". In the decision reported in William Jacks and Co. Ltd. v. State of Madras [1960] 11 STC 340 (Mad.) the question was whether a lathe machine comes within the scope of the expression "electrical goods" and it was held that it did not. The reason given was that though "the lathe itself is machinery ; dependent no doubt on electricity but it could easily be designed and altered for use with other types of power. Thus the test according to the above decision was not whether the particular machine under consideration worked on electricity or not but whether it could be ''designed'' or ''altered'' for use with other types of power. Another question which came up for consideration before the Madras High Court was whether the welding electrodes were "electrical goods". That came up for consideration in Deputy Commissioner of Commercial Taxes, Madurai Division Vs. Ravi Auto Stores, The court held as follows :

"In our view, the argument lays too much stress on the user of the article with electrical energy. That, no doubt, is a test for purposes of entry 41, but is not the only test. Before applying that test, the goods must be capable of classification as electrical goods. Though the words are easily understood in common parlance, it is one of those cases which are more easily understood than defined satisfactorily."

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/nd-narayanan-nambiar-appellant-…

The court then formulated the following tests :

"Intrinsically, the goods in question must be electrical goods and, secondly, their use cannot be had without electrical energy. Merely because an article cannot be used without electricity, it may not be decisive. It is necessary that, apart from that fact, the article, by its very nature, answers the description of ''electrical goods''. For instance, the use of a motor-car cannot be had without batteries or a dynamo fitted to it. But on that account, can it be said that motor car is ''electrical goods''?"

The court then held that welding electrodes were not electrical goods. The decision reported in J.B. Advani-Oerlikon, Electrodes Pvt. Ltd. v. Commissioner of Sales Tax, M.P. [1972] 30 STC 337 (MP), applies the same tests. Madhya Pradesh High Court held that welding electrodes were not electrical goods. On the same reasoning the switch-boards and battens were not declared as electrical goods by the Allahabad High Court in Commissioner of Sales Tax v. Bharat Traders [1974] 33 STC 3. So far as the decision reported in Commissioner of Sales Tax Vs. Import Association, it was held that ammeters and voltmeters were electrical goods as they could perform their function only when electrical energy is made to pass through them. In State of Tamil Nadu v. Metro Electrical Globes [1977] 39 STC 188(GAU), the Madras High Court held that globes and lamp-shades are accessories of electrical goods.

3. According to us the simple question considered is whether how the goods are described in the common parlance. People go in search of mosquito repellants. The mosquito repellants are of various kinds. Certain mosquito repellants are operated by electrical energy. But the other mosquito repellants need not have the use of electricity. Thus we an? of the view that mosquito repellants are not electrical goods. Probably it is because of this that the Legislature itself has subsequently included the mosquito repellants under new entry 123-B of the First Schedule from August 1, 1991.

For the above reasons the T.R.C. is dismissed.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/nd-narayanan-nambiar-appellant-…