

(1993) 06 KAR CK 0009
In the Karnataka High Court
Case No : S.T.R.P. No. 22 of 1991

Popular Bone Mills

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 03-06-1993

Acts Referred:

Karnataka Sales Tax Act, 1957 — Section 5 (3) (b)

Citation : (1993) 91 STC 334

Hon'ble Judges : R.V. Vasanthakumar, J;K. Shivashankar Bhat, J

Bench : Division Bench

Advocate : Sri Vasan Associates, for the Appellant; H.L. Dattu, Government Advocate, for the Respondent

Judgement

K. Shivashankar Bhat, J.—The petitioner has questioned the levy of purchase tax on the "bone" purchased by the petitioner. The question pertains to the years 1980-81, 1981-82 and 1982-83. Though the revision petition is numbered as S.T.R.P. No. 22 of 1991, we are told that the petitioner has paid court-fee governing three revision petitions.

2. There is no dispute that the petitioner purchased the bone and thereafter bone meal was prepared out of the bone purchased and it was sold. There is also no dispute that the petitioner paid tax in respect of sales turnover of bone meal at 2 per cent. The revisional authority revised the order of the assessing authority and directed that the turnover of the bone purchased by the petitioner also should be taxed having regard to entry 13 of the Third Schedule to the Karnataka Sales Tax Act, 1957 ("the Act", for short).

3. Entry 13 of the Third Schedule refers to "bones and horns". In respect of the goods stated in the Third Schedule the tax is a single point purchase tax u/s 5(3) (b) at the rate stated in the Third Schedule. There is no dispute that the petitioner is a last purchaser of the "bone" in the State.

4. Entry 48 of the Second Schedule refers to "bone meal" and "oil cake". Under

the Second Schedule single point tax is leviable on the first or earliest of the successive dealers in the State u/s 5(3)(a).

5. According to the learned counsel for the petitioner bone and bone meal are the same commodity and if tax is levied on the "bone meal", then purchase tax cannot be levied on the turnover of the "bone".

6. We are not concerned here with the chemical qualities of these two items. The Legislature has specifically treated the commodity called "bone", under the Third Schedule and the commodity referred to as "bone meal" under the Second Schedule. The fact that bone and bone meal have different commercial value, cannot be normally disputed. The Legislature is perfectly competent to take into consideration this distinction and treat different commercial commodities differently for the purpose of levy of tax. That is what has been done in the instant case by the Legislature. Therefore, if the petitioner was the last purchaser of the bone, the petitioner is certainly liable to pay the purchase tax under the Third Schedule. Thereafter, when the petitioner sells the commodity referred as a "bone meal" prepared out of the aforesaid bone, the said turnover also is liable to tax under the Second Schedule because the petitioner will be the first seller of "bone meal". The learned counsel for the petitioner submitted that such a distinction should not be made and that when tax is levied in respect of turnover of one of the commodities, the other commodities should not be burdened with the tax. We are not aware of any principle which would support the proposition advanced by the learned counsel for the petitioner. Since the Legislature has thought it fit to make the distinction between "bone meal" and "bone", the same shall have to be given effect to while implementing the provisions of the Act.

7. Consequently, this revision petition is dismissed. No costs.

8. Petition dismissed.