

(1980) 03 MAD CK 0020

In the Madras High Court

Case No : T.C. No's. 371 to 374 of 1980 (Revision No's. 151 to 154 of 1980)

Raj Lubricants

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 20-03-1980

Acts Referred:

Citation : (1980) 46 STC 449

Hon'ble Judges : M.M. Ismail, C.J; Ratnam, J

Bench : Division Bench

Advocate : C. Nartarajan, for the Appellant;

Judgement

Ismail, C.J.—These are petitions against the orders of the Sales Tax Appellate Tribunal, Madras Bench, holding that the sale of mineral oil

effected by the petitioners herein was liable to sales tax. The facts are not in controversy. The petitioners purchased mineral oil from the Indian Oil

Corporation under the brand name, Indrex Oil Light, and they paid tax thereon. Subsequently, this oil purchased by them was subjected to

different chemical processes and the resultant oil was sold under different commercial names. The order of the Tribunal extracts the procedure

adopted by the petitioners in the processing of the oil and the same is as follows :-

Procedure for processing transformer oil. - The base oil used is a kind of mineral oil marketed by the Indian Oil Corporation, Madras-2, under

the brand name, Indrex Oil Light. The above oil is treated with sulphuric acid of 1 to 2 per cent strength for removing aromatic and unsaturated

compounds present in the oil. The quantity of the acid used for treatment is 5 per cent of the total quantity of the oil taken for processing. The

resultant purified oil is decanted by applying activated fullers earth. The quantity of fullers earth used is 4 per cent of the purified oil. Then the decanted oil is treated with solution of sodium carbonate (the quantity used being 2 per cent of the quantity of the decanted oil) for removing the acidity present in the oil on account of the initial treatment with sulphuric acid. The resultant oil is filtered by vacuum process for removing the residual impurities. The filtered oil is sold as transformer oil.

2. The second procedure adopted by the petitioners is stated to be as follows :

The base oil used is mineral oil marketed by the Indian Oil Corporation, Madras-2, under the brand Indrex Oil 10. This oil is mixed with cutting oil additives bought in the market as such. The composition of the additive is not known, as it is trade secret of the sellers. The quantity of the additive used is 20 per cent of the quantity of base oil taken for processing.

3. The third process is described as under :

The base oil used is waste oil bought of local registered dealers. The waste oil is purified by adding 4 per cent of soda-ash and 10 per cent of sulphuric acid. The purified oil is sold as Oil 91.

4. But this does not dispose of the main point raised before us, namely, that inasmuch as the oil purchased from the Indian Oil Corporation has

been taxed at a single point under item 47-A of the First Schedule to the Tamil Nadu General Sales Tax Act, 1959, the disputed items, namely,

transformer oil, soluble cutting oil and Oil 91, cannot be taxed again as a single point item. The point in controversy is this : The petitioners having

paid tax on the purchase under item 47-A of the First Schedule to the Tamil Nadu General Sales Tax Act, 1959, they were not liable to pay a

second tax when they sold the oil after the processes referred to above. The Tribunal held that by these processes referred to above, the oil which

the petitioners purchased lost its identity and has become commercially a different commodity and therefore it is not open to the petitioners to

contend that the sales of the oil effected by them cannot be taxed. In paragraph 15 of the order of the Tribunal, this is what is stated :

Applying these principles to the facts of the present case, we find that the commodities marketed by the appellants are different from the

commodity purchased. They have also undergone a chemical and not merely a mechanical process in their conversion. They are therefore distinct

in their characteristics. They are also marketed under different commercial names. They have thus lost their identity. In other words, they have not retained the identity of their origin. It is thus clear that a new commercial commodity has emerged and becomes a separate taxable item.

5. Item 47-A in the First Schedule to the Tamil Nadu General Sales Tax Act, 1959, reads as follows :

All kinds of mineral oils (other than those falling under item 47 of this schedule, and under item 3-A of the Second Schedule and not otherwise provided for in this Act) including furnace oil.

6. Consequently, the item opens by saying ""all kinds of mineral oils"" thereby indicating that the legislature itself contemplated different kinds of

mineral oils. Therefore, when the petitioners purchased the base oil it was one kind of mineral oil which liable to be taxed under item 47-A and

when the petitioners sold the mineral oil after subjecting the same to different processes, as referred to above, they were not selling the mineral oil

of the same kind but mineral oil after subjecting it to various chemical and other processes by which the mineral oil purchased by them ceased to

be the same and lost its identity and became a different commercial commodity, in other words, another kind of mineral oil. In such a situation, the

Tribunal was right in holding that the sales effected by the petitioners were liable to sales tax under item 47-A of the First Schedule to the Tamil

Nadu General Sales Tax Act, 1959. These tax revision petitions fail and are accordingly dismissed.

7. Petitions dismissed.