
(1961) 09 MAD CK 0007

In the Madras High Court

Case No : Tax Case No. 149 of 1959 (Revision No. 94.)

Saradha Oil Mills

APPELLANT

Vs

The State of Madras

RESPONDENT

Date of Decision : 15-09-1961

Acts Referred:

Citation : (1961) 09 MAD CK 0007

Hon'ble Judges : Srinivasan, J; Jagadisan, J

Bench : Division Bench

Advocate : S. Palanisami for M/s K. Sarvabhauman and D.S. Meenakshisundaram, for the Appellant; G. Ramanujam for The Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Jagadisan, J.—The petitioner is a registered manufacturer of oil. Such manufacturers of oil are entitled to a deduction under R. 5 (1) (k) of

the Turnover and Assessment Rules as it stood previously. The conditions relevant to this deduction are set out in R. 18. The Deputy Commercial

Tax Officer granted deduction to the extent of Rs. 20,85,032-0-9. The Commercial Tax Officer revised this assessment and reduced the

deduction to Rs. 19,73,967. Against this order of the Commercial Tax Officer, an appeal was carried to the Appellate Tribunal. The contention

raised was that the deductions allowed by the Deputy Commercial Tax Officer were made on the basis of the particulars contained in the Form A-

9 applications and that it was not competent to the Commercial Tax Officer to vary the quantum of the deduction relying upon the third proviso to

R. 18 (2). This proviso reads:

Provided further that the amount of the turnover in respect of which deduction is

allowed shall not exceed the amount of the turnover attributable to the ground nut and/or kernel used in the manufacture of oil and included in the net turnover.

The Appellate Tribunal held that the object of the provision was only to afford relief against what may be regarded as double taxation, that is to

say, a manufacturer of oil is taxed both on the purchase of the groundnut or kernel and on the sale value of the oil extracted therefrom. Since the oil

is subjected to a sales tax, provision was made for excluding the value of the groundnut from which that oil was extracted from the total turnover,

and this was granted as a deduction. The Tribunal interpreted the proviso set out above to mean that the deduction has to be restricted to the

actual purchase value of the groundnut from which the oil sold was extracted. It is this view of the Tribunal that is canvassed in the revision petition.

2. On a consideration of the relevant provisions, we feel that the conclusion reached by the Tribunal is correct. We have already referred to the

object underlying the grant of this deduction. If that object is to be any guide to the interpretation, that would certainly go to show that what the

State wanted to relieve the manufacturer of oil against was a sort of double taxation. If out of a certain quantity of groundnut or kernel purchased

by the manufacturer and on which he had paid the purchase tax, the manufacturer obtained a certain quantity of oil and was again taxed on the sale

value of the oil, his total turnover would be the total of the purchase value of the groundnut and/or the kernel and his sale value of the oil. If the

relief was only against the double taxation, obviously such relief should be restricted only to the tax paid on the purchase value of the groundnut or

kernel. What the proviso upon which the Commercial Tax Officer and the Appellate Tribunal relied does is only to set an upper limit to the

quantum of deduction, that is to say, that upper limit is fixed as the value of the ground nut or kernel which the assessee purchased and used in the

manufacture of the oil.

3. The content of R. 18 may be broadly set out thus : A dealer manufacturing groundnut oil has to get himself registered. If he fails to register

himself, he is not eligible to the deduction contemplated under R. 5 (1) (k). R. 18 (2) fixes the quantum of such deductions as "equal to the value of

the groundnut or kernel purchased by him and converted into oil and cake, if he

has paid the tax to the State on such purchases."" For calculating the value for the purpose of R. 18 (2), R. 18 (4) provides a method. This rule has also a close relevance to the monthly applications made by the manufacturer claiming the deduction. The eligibility for the deduction is based upon two circumstances : (1) the manufacturer should be registered and (2) that he should have made applications month after month in a specified form containing certain particulars. For the purpose of calculating the value of the groundnut purchased and converted into oil, R. 18 (4) provides a notional method of such valuation. The result is that the value of such groundnut and kernel is ascertained in that manner. R. 18 (2) while stating that every registered manufacturer will be entitled to a deduction as set out therein, provides further that the quantum of such deduction shall not exceed the amount of the turnover attributable to the groundnut or kernel used in the manufacture of oil and included in the net turnover. We are unable to follow the arguments of the learned Counsel in so far as he endeavours to explain what this proviso means. His contention seems to be that the quantity of the oil should be worked backwards according to the formula given in the Explanation to R. 18 (2) and converted into the equivalent quantity of groundnut. That quantity of groundnut should be valued according to R. 18 (4). We arrive at a particular figure thereby. This amount, so it is claimed on behalf of the petitioner, is the precise amount in respect of which deduction should be allowed. It is notional in a double sense, namely, the statutory percentage of conversion of oil to groundnut as set out in the Explanation is valued, that is to say, though a known quantity of groundnut might have been used in the production of a certain quantity of oil, the notional quantity of groundnut is assumed to have been used. The next stage is its valuation, again notionally, under R. 18 (4). If the manufacturer is entitled to the deduction of this notional value, the second proviso which we have extracted above loses all meaning. This notional value is undoubtedly the amount of turnover in respect of which deduction is allowed within the meaning of Sub-R. (2) of R. 18. But the proviso to this rule sets an upper limit to the amount of such deduction by stating that it shall not exceed the amount of the turnover attributable to the groundnut or kernel used in the manufacture of oil. This expression ""attributable"" may no doubt be differently interpreted to mean either the

value of the actual quantity of the groundnut or kernel used or of the notional quantity as arrived at by the application of the Explanation. But it is further qualified by the expression ""and included in the net turnover."" It is not pretended that the value of this notional quantity is or can at all be included in the net turnover. It is obviously only the actual purchase value of the groundnut that is included in the net turnover. The upper limit of the deduction is therefore the turnover relating to the groundnut and kernel used in the manufacture which turnover is actually included in the net turnover. This proviso, to our minds, carries into effect the intention underlying the grant of the deduction, viz., to avoid double taxation. If the contention of the learned Counsel that the notional value of the turnover is alone to be adopted, the proviso ceases to have any meaning and cannot as far as we can see be given effect to. It follows that the contention of the petitioner fails. The revision petition is dismissed with costs. Counsel's fee, Rs. 100.