

(1954) 04 MAD CK 0031

In the Madras High Court

Case No : Tax Revision Case No. 286 of 1953

Sree Radhakrishna Groundnut Oil Mill

APPELLANT

Vs

The State of Madras

RESPONDENT

Date of Decision : 07-04-1954

Acts Referred:

Constitution of India, 1950 — Article 286(3)
Madras General Sales Tax (Turnover and Assessment) Rules, 1939 — Rule 18, 18(2), 4(2), 5
Madras General Sales Tax Act, 1939 — Section 2, 3

Citation : (1955) ILR (Mad) 821

Hon'ble Judges : Satyanarayana Rao, J;Rajagopalan, J

Bench : Division Bench

Advocate : K. Bhimasankaran, for N. Rajeswara Rao and M.S.R. Sastry, for the Appellant; M. Seshachalapathi, Additional Government Pleader, for the Respondent

Judgement

Rajagopalan, J.—The Assessee was a registered dealer in groundnut, and he was also a registered manufacturer of groundnut oil. The assessment with which we are concerned was for the assessment year 1950-51.

2. The Assessee objected to the inclusion in his taxable turnover of the purchase price of groundnuts on the ground that he was not liable to pay any sales tax under the Act until that groundnut had been sold. That contention was repelled by the Tribunal.

3. "Dealer" is no doubt defined by Section 2 of the Act as "any person who carries on the business of buying or selling goods." We are unable to accept the interpretation placed upon that section by the learned Counsel for the Petitioner, which would really convert the definition into something like this: "Dealer means a person who carries on the business of buying and selling the very goods he bought." We see no basis in the scheme of the Act or in the wording of the section for such an interpretation. Under Rule 4(2) of the Madras General Sales

Tax Act (Turnover and Assessment) Rules, dealings in groundnut are taxable at the purchase point. It was on the purchase point that the Assessee was taxed. When exactly he sold the groundnut which he had purchased or when exactly he converted that groundnut into oil did not matter, so long as the condition required by Rule 4(2) was satisfied, that the groundnut was purchased by the dealer, i.e., Assessee, in the course of his business. As we have pointed out before, his business was that of a dealer in groundnut and a manufacturer of groundnut oil. If he bought the groundnut in the course of that business he became liable to tax. But it should also be remembered that, what is taxable u/s 3 is the turnover for the year. There was, therefore, no need for further investigation, whether the groundnut so bought during the assessment year, on the basis of which the taxable turnover was fixed, was proved to have been sold, either wholly or in part. This question was also discussed in Tax Revision Case No. 49 of 1953, when the scope of Rule 4(2) and of the charging Section 3 were discussed, and there is no need to set out those reasons over again now. Following our previous decision, we hold there is no substance in the contention of the Assessee, that Rule 4(2) of the Sales Tax (Turnover and Assessment) Rules did not authorise the imposition of a sales tax on the turnover on the purchase price until there was proof that what had been bought was also sold.

4. The next contention of the Assessee was that, what Rule 4(2) referred to was groundnut and that it did not include groundnut kernel. We are unable to accept this contention either. That was also rejected by the Tribunal. Groundnut kernel is certainly part of groundnut, and whether the groundnut bought by the dealer was sold as groundnut or was sold as groundnut kernel or was subsequently converted into oil and sold as oil, what was taxable was the purchase. We agree with the Tribunal in holding that the expression groundnut, even as the expression in Clause 2(b) "cashew", included the kernel, in this case, the groundnut kernel.

5. The third point urged by the Assessee was that in allowing the deduction under Rule 18 of the Madras General Sales Tax Act (Turnover and Assessment) Rules read with Rule 5(i)(k), the Assessee was entitled also to deduct the purchase price of groundnut or groundnut kernel when the purchases were made outside the taxable territory. We agree with the Tribunal in rejecting this contention also. The scheme of the taxation is not to provide for any special concession for the manufacture and sale of the groundnut oil as such. The scheme, as we understand it, is that, if a registered manufacturer of oil purchases groundnut and pays tax under Rule 4(2) on the purchase of that groundnut, if he subsequently converts that groundnut into oil and sells the oil, he would normally be liable to further sales tax on the sales turnover of that oil but for Rule 18(2). Therefore, if he has already paid the tax on the purchase of the groundnut which was subsequently converted into oil, he is given a deduction under Rule 18(2) read with Rule 5(i)(k) of the Turnover and Assessment Rules. We have already-discussed the question in other cases and held that where oil is sold without liability to sales tax no question of deduction arises. The converse of

it is what we have to consider in this case. Such deduction is allowed only where the purchase has already been made subject to tax under the Sales Tax Act. If the purchases were made outside the State of Madras, these purchases would not come within the scope of Rule 4(2); and if groundnut oil is extracted from groundnut on the purchase of which no tax was paid, the sales turnover of such oil would be liable to tax under the scheme of the Sales Tax Act, and Rule 18(2) would not apply to the turnover of the oil so extracted from groundnut on the purchase of which no tax was paid.

6. The last point urged was based upon Article 286(3) of the Constitution which runs thus:

No law made by the legislature of a State imposing or authorising the imposition of a tax on the sale or purchase of any such goods have been declared by parliament by law to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent.

The learned Counsel for the Petitioner contended that groundnut was declared by Parliament in 1952 to be an essential commodity, and that, therefore, the levy of any tax even on the purchase of groundnut was opposed to Article 286(3). Article 286(3) would apply to any law made by a Legislature of a State subsequent to the date on which the Constitution came into force. Even apart from that, the ban of Article 286(3) will fall only after Parliament declares by law any goods as essential for the life of the community. We are concerned with the assessment year 1950-51. During that period, there was no declaration by Parliament by law that groundnut was an essential commodity, essential for the life of the community. The contention from either point of view has to be rejected.