
(1981) 01 MAD CK 0019

In the Madras High Court

Case No : Tax Case Petition No. 1021 of 1980 (Revision No. 610 of 1980)

Sri Ram Products

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 28-01-1981

Acts Referred:

Drugs and Cosmetics Act, 1940 — Section 3

Citation : (1983) 52 STC 187

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

Bench : Division Bench

Advocate : K. Jayachandran, for C.S. Chandrasekara Sastri and C. Venkataraman, for the Appellant;

Judgement

Ismail, C.J.—The only question that the Tribunal had to decide was whether absorbent cotton wool produced by the petitioner herein could

be classified under the heading ""surgical dressing"" under item 95 of the First Schedule to the Tamil Nadu General Sales Tax Act, 1959, or it would

come under item 2 of the Second Schedule to the Tamil Nadu General Sales Tax Act, 1959, being a declared goods. Item 95 of the First

Schedule reads as follows :

Drugs, patent or proprietary medicines as defined in section 3 of the Drugs and Cosmetics Act, 1940 (Central Act XXIII of 1940), or medicinal

mixtures or compounds, the components of which have not already suffered tax, but excluding Arishtams or Asavas and including surgical dressing.

2. Item 2 of the Second Schedule reads as under :

Cotton, that is to say, all kinds of cotton (indigenous or imported) in its unmanufactured state whether ginned or unginned, baled, pressed or

otherwise, but excluding cotton waste.

3. It can be immediately seen that the petitioner's product, namely, absorbent cotton wool, cannot fall under item 2 of the Second Schedule to the

Act, because for item 2 to apply, the cotton must be in an unmanufactured state. The petitioner's product had gone through some manufacturing

processes. Therefore, item 2 of the Second Schedule cannot apply. The other question is whether it comes under item 95 of the First Schedule to

the Act or not. We have already extracted that item, and the relevant expression is "including surgical dressing", and therefore, the question to be

considered is whether the product of the petitioner can be said to be "surgical dressing" or not. It is admitted that the product has been described

as "absorbent cotton wool I.P." and it has been packed in 100 grams for being used as surgical dressing and the label also mentions that it has to

be sterilised before use. The use of the expression "I.P." in the very name itself as well as the requirement of its being sterilised before use clearly

show that the product of the petitioner will fall within the classification of "surgical dressing" and consequently, the order of Tribunal holding to that

effect cannot be said to be erroneous in law. Hence, the tax revision case is dismissed.