(1995) 01 AP CK 0019

In the Andhra Pradesh High Court

Case No : T.R.C. No. 176 of 1987

State of Andhra Pradesh APPELLANT

Vs

Jananti Oil Mills Private Ltd. RESPONDENT

Date of Decision : 31-01-1995

Acts Referred:

Citation : (1995) 3 ALD 1118 : (1995) 2 ALT 215 : (2000) 117 STC 289

Hon'ble Judges : S.S. Mohammed Quadri, J;S. Parvatha Rao, J

Bench : Division Bench

Advocate : Government Reader for C.T. and P.R, for the Appellant; P. Srinivasa Reddy, for the Respondent

Judgement

Syed Shah Mohammed Quadri, J.—The short question that arises for consideration in this tax revision case is whether the groundnut oil extracted from groundnut cake is exigible to tax at the reduced rate under entry 24(b) of the First Schedule to the Andhra Pradesh General Sales Tax Act, 1957.

It would be useful to read here entry 24 of the First Schedule to the Act.

--- "Sl. No. Description of goods Point of levy Rate of tax --- 24. Groundnut oil or refined oil - (a) Groundnut oil or At the point of 6 paise in refined oil not first sale in the the rupee. covered by sub- State. item (b) below; (b) Groundnut oil - do - 2 paise in or refined oil the rupee." obtained from groundnut that has met tax under the Act. ---

A plain reading of the entry would show that when the raw material for extracting the groundnut oil is tax-suffered "groundnut" the reduced rate of 2 per cent prescribed under (b) would apply; for all other types of groundnut oil the rate of 6 per cent prescribed under (a) would apply.

2. In the instant case the assessee is a dealer in groundnut oil. The oil was extracted from "groundnut oil-cake". For the assessment year 1977-78 the assessing authority taxed the turnover in question under entry 24(a). On appeal the Deputy Commissioner did not agree with the contention of the assessee that because the "groundnut oil-cake" has suffered tax the rate applicable should be under entry 24(b). However, on further appeal the Tribunal took the view that as "groundnut oil-cake" out of which the oil was extracted has suffered tax, the relevant entry would be 24(b). The reasoning of the Tribunal is that as the raw material from which the oil has been extracted has suffered tax the rate of tax applicable should be only reduced rate mentioned in entry 24(b) but not the higher rate specified in entry 24(a). We are unable to agree with the reasoning of the Tribunal having regard to the phraseology used in the entry by the Legislature. Had the Legislature wanted to grant the benefit of reduced rate of tax in cases where the tax-suffered raw material has been used for extracting groundnut oil, it would have stated so specifically. The intention of the Legislature as indicated above appears to be to tax at the reduced rate only when the raw material for extracting groundnut oil is "groundnut" only but not otherwise. If that be the intention then on the ground that the raw material used for extracting "groundnut oil" has suffered tax, the reduced rate of tax under entry 24(b) cannot be made applicable. We have also support for this view from the judgment of division Bench of the Punjab and Haryana High Court in Chhatar Chemicals Ltd. v. State of Haryana [1994] 93 STC 215. In that case the notification of Government of Haryana granted concession in the rate of tax payable on sales of oil extracted from sarson, etc. The learned Judges held that the concessional rate did not apply to sales of oil extracted from oil-cakes which was a different raw material.

3. For the above reasons, the order under revision is set aside. The order of the Deputy Commissioner is confirmed and the tax revision case is allowed but, in the circumstances of the case, without costs.

4. Petition allowed.

