(1983) 02 SC CK 0036

In the Supreme Court Of India

Case No : Civil Appeal No. 2291 of 1980

State of Kerala APPELLANT

Vs

Jay Engineering Works Limited, Ernakulam RESPONDENT

Date of Decision : 18-02-1983

Acts Referred:
Kerala General Sales Tax Rules, 1963 — Rule 9

Citation : AIR 1983 SC 369 : (1983) 1 SCALE 151 : (1983) 2 SCC 81 : (1983) 2 SCR 361 : (1983) 53 STC 97

Hon'ble Judges : P. N. Bhagwati, J;E. S. Venkataramiah, J

Bench : Division Bench

Advocate : P.K. Pillai, for the Appellant; E.C. Agarwala, for the Respondent

Final Decision : Allowed

Judgement

1. This appeal is filed against the judgment dated November 21, 1978 of the High Court of Kerala in The Jay Engineering Works Ltd. v. State of Kerala 43 S.C.C. 492.

2. In Deputy Commissioner of Sales Tax (Law), Board of Revenue (Taxes), Ernakulam Vs. Motor Industries Co., Ernakulam, , we have held that any claim for deduction in respect of goods returned by the purchasers under Rule 9(b)(i) of the Kerala General Sales Tax Rules, 1963 should be made in the assessment proceedings relating to the year in which the said goods were sold and not in the assessment proceedings relating to the assessment year in which they were actually returned. Following the above decision we set aside the judgment of the High Court in this case and direct that the assessment order for the year 1972-73 shall be accordingly modified. As a consequence of this order, the Department is directed to modify the assessment order for the assessment year 1971-72 by allowing deduction under Rule 9(b)(i) of the Kerala General Sales Tax Rules, 1963 and to make refund of any excess tax paid during that year.

3. The appeal is accordingly allowed. No costs.