(2002) 09 KL CK 0018

In the High Court Of Kerala

Case No : T.R.C. No. 348 and 396 of 2000

State of Kerala — APPELLANT

Vs

N.N. Shanavas — RESPONDENT

Date of Decision : 25-09-2002

Acts Referred:

Citation : (2006) 143 STC 92

Hon'ble Judges : G. Sivarajan, J;C.N. Ramachandran Nair, J

Bench : Division Bench

Advocate : Georgekutty Mathew, Govt. Pleader, for the Appellant; K.I. Mayankutty Mather and Sunil Shanker, for the Respondent

Final Decision : Dismissed

Judgement

G. Sivarajan, J.—These two revisions are filed by the Revenue. Same assessee is the respondent in these two cases. The assessment years concerned are 1986-87 and 1987-88. The assessee is an oil miller. During the assessment years of 1986-87 and 1987-88 the assessee effected inter-State sales of oil. The assessee has also produced C form in respect of a major portion of the turnover returned and claimed concessional rate of 1 per cent on the basis of S.R.O. No. 117/66. The assessing authority granted concessional rate in respect of the turnover covered by C forms. However, the same treatment was not given to the turnover not covered by C form and assessed the said turnover at the normal rate. Appeal before the first appellate authority was not successful. In second appeal, the Tribunal allowed the claim for concessional rate of 1 per cent under the notification holding that the assessee had satisfied the conditions stipulated in the notification.

2. The learned Government Pleader appearing for the petitioner submits that the assessee did not satisfy the requirements of the notification. He also submits that in order to get the benefit of concessional rate as per notification, the assessee should have produced the C forms also.

3. We have considered the rival submissions. Admittedly, the assessee had produced C form in respect of a major portion of the transactions. We have perused the notification S.R.O. No. 117/66. We find that the only condition imposed for getting concessional rate of tax of 1 per cent is that the turnover of coconut or copra from which coconut oil is extracted is assessed to tax or is liable to tax at his hands under the Kerala General Sales Tax Act, 1963. The learned counsel appearing for the assessee produced before us the assessment orders under the Kerala General Sales Tax Act for the years 1986-87 and 1987-88 from which we find that the purchase turnover of copra has suffered tax at the hands of the assessee. We also find from the assessment orders that the assessing authority has granted concessional rate in respect of the inter-State turnover covered by C form. It will also show that the coconut or copra from which coconut oil is extracted has already suffered tax at the hands of the assessee. The only question to be considered in the circumstances is as to whether the inter-State turnover not covered by C form is also entitled to the benefit of the notification S.R.O. No. 117/66. As already noted the only condition imposed by the notification is that the coconut or copra from which oil is extracted has already suffered tax at the hands of the assessee.

In view of what we have already noticed, we do not find any illegality in the order of the Appellate Tribunal. We accordingly uphold the said order and dismiss these two revisions.