(1994) 11 MAD CK 0033

In the Madras High Court

Case No : Tax Case No. 604 of 1983

State of Tamil Nadu — APPELLANT

Vs

P. Pasupathi — RESPONDENT

Date of Decision : 30-11-1994

Acts Referred:

Citation : (1994) 11 MAD CK 0033

Hon'ble Judges : R. Jayasimha Babu, J;K.A. Thanikkachalam, J

Bench : Division Bench

Advocate : Smt. Chitra Venkataraman, Additional Government Pleader Taxes, for the Appellant; S. Shanmugam for M/s. C. Natarajan, N. Inbarajan and K. Jayachandran, for the Respondent

Judgement

Thanikkachalam, J.—The department is the petitioner herein. The assessee is a registered dealer under the Tamil Nadu General Sales Tax

Act, 1959 and doing business in manufacturing and selling of cattle feed under the name and style of ""Saravana Cattle Feeds"". For the assessment

year 1979-80, the total turn-over in cattle feed has been determined at Rs. 1,28,814.50. The assessee claimed exemption of cattle feed turnover in

view of the Notification dated April 12, 1979 [Notification No. II(1)/CTRE 316/79 dated April 12, 1979]. According to the assessing officer,

exemption can be granted under the said notification if the assessee sells rice bran only as cattle feed. But, in the present case, according to the

assessing officer, the assessee is also mixing molasses and salt along with other items in the cattle feed and therefore, the abovesaid notification will

not be applicable to the case of the assessee. In that view of the matter, exemption was not granted. On appeal, the Appellate Assistant

Commissioner confirmed the view taken by the assessing officer. On further appeal the Tribunal following an earlier decision of this Court, held that

molasses and salt are being added only for giving taste to the mixture, and so in this case, addition of salt to the mixture will not alter the nature of

the mixture and the cattle feed in this case, is entitled for exemption. Accordingly, the Tribunal deleted the addition made by the assessing officer

with regard to the sale turnover of cattle feed. Aggrieved, the department is in revision before this Court. The learned Additional Government

Pleader (Taxes) submitted that the Tribunal was not correct in granting exemption to the turnover of cattle feed since the ingredients contained in

the cattle feed showed by the assessee are not in accordance with the notification cited supra.

2. We have also heard the learned counsel appearing for the assessee who supported the order passed by the Tribunal. A similar question came

up for consideration before this Court in the case of Sree Ramakrishna Cattle-feed Manufacturers v. Commercial Tax Officer reported in [1990]

76 STC 10 (Mad.), wherein this Court held that molasses and salt were added to the cattle feed for the purpose of taste. Therefore, the cattle feed

sale turnover showed by the assessee, cannot be said to be not exempted under Notification No. II(1)/CTRE/316/79 dated April 12, 1979. Thus,

according to the abovesaid decision, the cattle feed mixed with molasses and salt are also exempted under the abovesaid notification. So also, this

Court had an occasion to consider a similar issue in [1995] 98 STC 167 (Mad.) supra; (1991) 1 MTCR 197 in the case of C. Rathinam,

Proprietor of J.K. Feed Trading Company v. State of Tamil Nadu wherein, while considering the exemption of sale turnover of cattle feed, this

Court held that the cattle feed consisting of rice bran, wheat bran, dust of pulses and gram, cholam, ragi and salt are exempted from taxation under

the Notification dated March 26, 1966 with effect from April 1, 1966. In view of the above cited decisions of this Court, we consider that there is

no infirmity in the order passed by the Tribunal in granting exemption with regard to the sale turnover of cattle feed in the present case where the

cattle feed is consisting of rice bran, molasses and salt. Accordingly, we uphold the order passed by the Tribunal on this aspect.

3. In the result, this revision is dismissed. No costs.

4. Petition dismissed.