(1990) 06 MAD CK 0038

In the Madras High Court

Case No : Tax Case No. 1214 of 1980 (Revision No. 727 of 1980)

Swastic Agency APPELLANT

Vs

State of Tamil Nadu RESPONDENT

Date of Decision : 13-06-1990

Acts Referred:

Tamil Nadu General Sales Tax Act, 1959 — Entry 139

Citation : (1990) 06 MAD CK 0038

Hon'ble Judges : Venkataswami, J;K.S. Bakthavatsalam, J

Bench : Division Bench

Advocate : Inbarajan, for M/s C.S. Chandrasekara Sastry, C. Natarajan, E.S. Kunchithapatham and S. Chandrasekaran, for the Appellant; R. Karuppan, Additional Government Pleader, for the Respondent

Judgement

Venkataswami, J.—This revision is directed against the order of the Sales Tax Appellate Tribunal (Second Additional Bench), Madras-1, in T.A. No. 1203/79 dated September 11, 1980.

2. The only question that arises for consideration in this tax revision is, whether "rose water" will fall under entry 139 of the First Schedule to the Tamil Nadu General Sales Tax Act, 1959, as it stood at the relevant time, namely, assessment year 1977-78. Entry 139 was introduced on and from July 25, 1977. It reads as follows :

Treating "rose water" as coming under "essences", the Revenue has taxed the sales turnover of "rose water" at single point rate. The contention of the assessee was that "rose water" is not an essence and it is liable to be taxed only under multi-point rate. The petitioner failed throughout. Hence the present revision petition.

3. The Tribunal, in its order, has taken the view as follows :

"..... In our view rose water is not a mere distilled water as claimed by the learned counsel. Rose water contains essence and as such purchased by the customers for mixing with drinks and sweets to get flavour. Rose water gives mild fragrance ....

No doubt rose water having mild fragrance cannot be stated to be a squash but certainly it is an essence used in drinks to get flavour. So in our view rose water comes within the term ''essence'' noted in item 139 of the First Schedule."

4. Mr. Inbarajan, learned counsel appearing for the petitioner, submitted that neither under the dictionary meaning nor under common parlance, "rose water" can be considered as an essence. According to him, the view taken by the Tribunal is totally unsustainable.

5. The learned Additional Government Pleader (Taxes), supporting the order of the Tribunal, stated that the view taken by the Tribunal is in accordance with the later amendment introduced to item 139 on and from June 3, 1981.

6. We can immediately state that we are not concerned with the amended entry and, therefore, we need not consider that.

7. One of the meanings given for the word "essence" in The World Book Dictionary is as follows :

"......... any concentrated preparation that has the characteristic flavour, fragrance, or effect of the plant, fruit, drug or the like from which it was obtained."

By no stretch of imagination, it can be said that "rose water" is a concentrated preparation. In the Shorter Oxford English Dictionary on Historical Principles - Third Edition - Volume I, the meaning for "essence" is given as follows :

"an extract obtained by distillation or otherwise from a plant or drug, and containing its specific properties in a reduced form."

Apart from this, we are unable to agree with the view taken by the Tribunal that "rose water" will fall under item 139. In our view, in common parlance, "rose water" will not be considered as an essence which has got a definite meaning. It is not in dispute that "rose water" is obtained by adding little essence of some flavour to a large quantity of water. Therefore, it cannot be said that "rose water" by itself is an essence. Accordingly, we hold that "rose water" will not fall under item 139 of the First Schedule to the Tamil Nadu General Sales Tax Act. The revision is, therefore, allowed. However, there will be no order as to costs.

8. Petition allowed.

