

(1962) 06 KL CK 0021

In the High Court Of Kerala

Case No : Tax Revision Case No. 51 of 1961

The Malabar Oil Mills

APPELLANT

Vs

The State of Kerala

RESPONDENT

Date of Decision : 22-06-1962

Acts Referred:

General Sales Tax Act, 1125 — Section 6

Citation : (1963) 14 STC 106

Hon'ble Judges : M.S. Menon, C.J.; P. Govindan Nair, J

Bench : Division Bench

Advocate : P.K. Subramania Iyer, P.V. Krishna Iyer, C.S. Ananthakrishna Iyer and P. Ramanarayanan, for the Appellant; Government Pleader, for the Respondent

Judgement

M.S. Menon, C.J.—The assessee, the Malabar Oil Mills, Valapad, purchased both imported and local copra during the year with which we are concerned, the assessment year 1958-59. A portion of the oil and cake produced in the mills was sold in inter-State trade, and a portion of the oil was used for the manufacture of soap in the soap works of the assessee. The balance of the oil and cake produced by the mills was sold within the State.

2. The value of the total quantity of oil produced is Rs. 8,80,016-39. Of these Rs. 2,17,761 worth of oil was sold in inter-State trade and Rs. 59,429 worth of oil was used for the manufacture of soap. The balance, namely, Rs. 6,02,826-39 worth of oil, was sold within the State.

3. The total value of cake produced was Rs. 87,532-34. Of these Rs. 6,722 worth of cake was sold in inter-State trade. The balance, namely, Rs. 80,810-34 worth of cake, was sold within the State.

4. There can be no doubt that Rs. 2,17,761 worth of oil and Rs. 6,722 worth of cake sold in inter-State trade cannot be taxed. The use of Rs. 59,429 worth of oil for the manufacture of soap by the assessee cannot amount to a sale and attract the tax.

5. The only question for determination, therefore, is whether the sale within the State of Rs. 6,02,826-39 worth of oil and Rs. 80,810-34 worth of cake also do not attract the tax as contended by the assessee. The contention in that behalf is based on a notification u/s 6 of the General Sales Tax Act, 1125, dated the 25th March, 1958. The notification reads as follows :-

In exercise of the powers conferred by Section 6 of the General Sales Tax Act, 1125 (Act XI of 1125) the Government of Kerala hereby exempt from the tax payable under the said Act on cocoanut oil and its cake produced and sold by a miller to the extent of the amount in respect of which he is assessed to tax or is liable for assessment to tax under the said Act on the purchase of any quantity of cocoanut or copra necessary for the production of an equivalent quantity of cocoanut oil and its cake computed in accordance with the table here to annexed.

Table.

316 cocoanuts shall be taken as equivalent to 100 lbs. of copra

or.

62.5 lbs. of oil and 37.5 lbs. of cake.

6. According to the assessee the notification exonerates completely from taxation the whole of his intra-State sales, namely, the sale of Rs. 6,02,826-39 worth of oil and Rs. 80,810-34 worth of cake. The submission is unjustified.

7. The meaning of the notification is clear. Let us assume that the assessee produced and sold 62.5 pounds of oil and 37.5 pounds of cake, and that the sale will attract "X" as the tax under the General Sales Tax Act, 1125. The quantity of cocoanuts or copra required for the production of that quantity of oil and cake is 316 cocoanuts or 100 pounds of copra. Let us assume that the tax assessed or is liable to assessment under the Act on the purchase of that quantity of cocoanuts or copra is "Y". In such a case the exemption from taxation under the notification is of "X" minus "Y".

8. In other words, so long as the assessee effected the purchase of 316 cocoanuts or 100 pounds of copra and the purchase is assessed or is liable to assessment under the Act he will be entitled to a deduction to the extent of that assessment or liability to assessment from the tax due under the Act on the sale of 62.5 pounds of oil and 37.5 pounds of cake. No other construction is possible on the wording of the notification and we must hold that such is the case.

9. It is common ground that the purchase turnover of local copra is alone taxable under the Act. It is also not disputed that the assessee has purchased a quantity of local copra sufficient to produce Rs. 6,02,826-39 worth of oil and Rs. 80,810-34 worth of cake. It must follow that he is entitled to an exemption to the extent provided by the notification from the tax due on the sales of Rs. 6,02,826-39 worth of oil and Rs. 80,810-34 worth of cake.

10. A fresh calculation on the basis of what we have stated above is necessary in

this case. We direct accordingly.

11. We allow the tax revision case in the manner and to the extent indicated above. In the circumstances of the case, however, there will be no order as to costs.