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(1956) 04 MAD CK 0045

In the Madras High Court

The State of Madras — APPELLANT

Vs

V.R.B. Gopalaratnam Gupta — RESPONDENT

Date of Decision : 26-04-1956

Acts Referred:

Citation : (1956) 2 MLJ 569

Hon'ble Judges : Krishnaswami Nayudu, J

Bench : Single Bench

Judgement

Krishnaswami Nayudu, J.—The State is the appellant. The plaintiff was assessed to sales-tax in the sum of Rs. 800-3-9 for the two

assessment years 1948-1949 and 1949-1950 in respect of the turnover of the sale of jaggery by him. The plaintiff respondent is a landlord in

Udamalpet. He has been leasing his nanja lands to various tenants on rents for raising sugar-cane crop, the rent being payable in jaggery. The

tenants used to supply such jaggery to wholesale merchants at prices fixed according to sample and the merchants used to credit the Value of such

jaggery to the plaintiff''s account in their ledgers and pay over the same to the plaintiff. The assessment was contested in the suit out of which this

appeal arises on the ground that the plaintiff is not a ""dealer"" and that in any event jaggery must be considered to be agricultural produce and it is

exempted from inclusion in the ""turnover"" as defined in Section 2(i) of the Act. On both these questions, a Bench of this Court in Vaidyanatha

Aiyar v. State of Madras (1954) 1 M.L.J. 526 : (1954) 5 S.T.C. 94, has taken the view that a person who sells jaggery must be considered to be

a ''dealer'' and when once jaggery is extracted from sugar-cane, it would not be agricultural or horticultural produce within the meaning of Section

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2(i) of the Act. The fact that in the case referred to, the assessee himself grew sugar-cane in his fields and converted the sugar-cane into jaggery

and in the present case the assessee was leasing the lands to tenants who raised sugar-cane and paid rent in the shape of jaggery and supplied it to

merchants to credit the value of jaggery to the account of the plaintiff would not make any difference, since the question is whether the plaintiff is a

person who could be considered to be carrying on the business of selling goods. That jaggery is not agricultural produce and from the fact, as

found by the learned District Munsif, that the plaintiff has been systematically growing sugarcane and converting it into jaggery and has been

maintaining account books, there can be no difficulty in holding that he has been doing business, the motive being profit or income. That the

property is transferred in the course of business is obvious. In any event applying the decision referred to, the suit has to be dismissed.

2. The result is, the appeal is allowed with costs. No leave.

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