(1983) 03 MAD CK 0044

In the Madras High Court

Case No : Tax Case (Revision) No. 110 of 1983 (Revision No. 63 of 1983)

The State of Tamil Nadu APPELLANT

Vs

A.K. Sundaram RESPONDENT

Date of Decision : 07-03-1983

Acts Referred:

Citation : (1983) 54 STC 82

Hon'ble Judges : P. Shanmugam, J;G. Ramanujam, J

Bench : Division Bench

Advocate : K.S. Bakthavatsalam, Additional Government Pleader, for the Appellant;

Judgement

Ramanujam, J.—The only question that arises for consideration in this tax case filed by the revenue is, whether arrow-root powder sold by

the assessee would fall under item 103(viii) of the First Schedule to the Tamil Nadu General Sales Tax Act, 1959, which is as follows :

103(viii) Foods including preparations of vegetables, fruits, milk, cereals, flour, starch, birds, eggs, meat and meat offals, animals blood, fish,

crustaceans and molluscs which -

(a) are sold under any brand name registered under the Trade and Merchandise Marks Act, 1958 (Central Act 43 of 1958); and

(b) do not fall under item 24.

2. According to the revenue arrow-root powder would fall either under ""food"" or under ""preparation of vegetables"". The Tribunal has held that

arrow-root powder is neither an item of food nor is it a preparation of vegetables, that the arrow-root powder is generally consumed by people

who are ill, particularly those suffering from diarrhoea or similar diseases and that therefore it cannot be taken to be an article of food.

3. In Deputy Commissioner of Sales Tax v. R. Viswambharan [1979] 44 STC 399, the Kerala High Court has held that arrow-root is a vegetable.

But the question here is, whether arrow-root powder sold by the assessee in packets is a preparation of vegetables. Arrow-root converted into

powder cannot be taken to be a preparation of vegetables, even assuming that arrow-root is a vegetable, as has been held by the Kerala High

Court in the said decision.

4. According to the learned counsel for the revenue, even if it is not a preparation of vegetable, it is still an article of food. Normally, the dictionary

meaning of food is something taken into the system to maintain life and growth and to supply nourishment. We do not think that in that sense

arrow-root powder sold by the assessee can be taken to be an article of food. As has been pointed out by the Tribunal, even if arrow-root is a

vegetable, every product of vegetable cannot be taken to be an item of food. If every product of vegetable is taken as food, then even turmeric

powder has to be taken as food, which is obviously untenable. In this view of the matter, we are in entire agreement with the view of the Tribunal

and we accordingly hold that arrow-root powder sold by the assessee in this case cannot be taken to be either an article of food or a preparation

of vegetable, which alone will bring it under item 103(viii) of the First Schedule to the Act.

5. The tax case is therefore dismissed.