(1981) 01 MAD CK 0040

In the Madras High Court

Case No : Tax Case No. 1157 of 1980 (Revision No. 716 of 1980)

V. Krishnan APPELLANT

Vs

The State of Tamil Nadu RESPONDENT

Date of Decision : 28-01-1981

Acts Referred:

Citation : (1983) 52 STC 183

Hon'ble Judges : Sethuraman, J;M.M. Ismail, J

Bench : Division Bench

Advocate : R. Gangadharan, for the Appellant;

Judgement

Sethuraman, J.—This tax revision case has been filed against the order of the Sales Tax Appellate Tribunal, Additional Bench, Madurai, dated 13th May, 1980, made in M.T.A. No. 680 of 1979. The assessee is a manufacturer of appalams under the name and style of "Ammami Appalam". The contention that was taken before the authorities and the Tribunal was that the sale of the appalams does not attract levy of tax at 8 per cent under item 103 of the First Schedule and that it should be taxed only at multi-point rate. Item 103(viii) of the First Schedule reads as follows :

"Foods including preparations of vegetables, fruits, milk, cereals, flour, starch, birds eggs, meat and meat offals, animal blood, fish crustaceans and mollusks

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."

Item 24 relates to "milk foods (excluding milk but including milk powder)".

2. It is not in dispute that appalams are made out of blackgram flour. Thus, the goods fall within item 103(viii) as preparations out of cereals. We do not see any

error of law in the judgment of the Tribunal. The tax revision case fails and the same is dismissed.

