

PETITIONER:
DY. COMMISSIONER OF SALES TAX (LAW), BOARD OF REVENUE (TAXES,)

Vs.

RESPONDENT:
COCO FIBRES

DATE OF JUDGMENT 04/12/1990

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
KULDIP SINGH (J)

CITATION:
1991 AIR 378 1990 SCR Supl. (3) 419
1992 SCC Supl. (1) 290 JT 1990 (4) 618
1990 SCALE (2) 1214

ACT:
Kerala General Sales Tax Act: Section 5A--'Coconut husk'
Whether coconut fibre a separate identity from 'Coconut husk'.

HEADNOTE:

The assessee is a registered dealer under the Kerala General Sales Tax Act. In its return of taxable turnover, the assessee excluded the value of coconut husks purchased and converted into coconut fibre on the ground that there was no manufacturing process involved in making fibre from coconut husk.

The Sales Tax Officer as well as the Appellate Authority negatived the assessee's claim. The Sales Tax Appellate Tribunal however, allowed the assessee's revision, and the High Court confirmed the order of the Tribunal. Allowing the appeal of the Revenue, this Court,

HELD: (1) By the process of manufacture something is produced and brought into the existence which is different from that, out of which it is made in the sense that the thing produced is by itself a commercial commodity capable of being sold or supplied. The material from which the thing or product is manufactured may necessarily lose its identity or may become transformed into the basic or essential properties. [421D-E]

Ujagar Prints v. Union of India, [1989] 3 SCC 488, referred to.

(2) The test laid down by this Court is that the article which comes into being must be commercially different from the one from which it is made or manufactured. [422D]

State of Bihar v. Chrestien Mica Industries Ltd., [1956] 7 S.T.C. 626 and Commissioner of Sales Tax v. Harbilas Rai & Sons, [1968] 21 S.T.C. 17 (S.C.), referred to.

(3) In view of the admitted position that green husk is soaked into saltish sea water for days together and after decomposition, on being subjected to beating either by manual or mechanical process, fibre is produced in the process, which is a distinct commodity known in the

420

commercial parlance. No one in the market would sale or supply husk when fibre is asked for. [422E]

Dy. Commissioner of Sales Tax (Law) v. Pie Food Packers,
[1978] 41 S.T.C. 364, distinguished.

(4) The Coconut fibre is commercially a different identifiable commodity known as such in commercial parlance. Therefore, the value of sale or purchase of coconut husk would attract purchase tax under section 5-A of the Sales Tax Act. [422G]

JUDGMENT :

JUDIS