

PETITIONER:
BHARUCH COCONUT TRADING CO. AND ORS.

Vs.

RESPONDENT:
MUNICIPAL CORPORATION OF THE CITY OF AHMEDABAD AND OTHERS.

DATE OF JUDGMENT 27/11/1990

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

CITATION:
1991 AIR 494 1990 SCR Supl. (3) 392
1992 SCC Supl. (1) 298 JT 1991 (1) 234
1990 SCALE (2) 1157

ACT:
Ahmedabad Municipal Corporation Act/Ahmedabad Municipal Corporation Rules--Rule 4 Item Nos. 10, 11 and 55--Watery coconut (brown coconut)--Eligibility to octroi.

HEADNOTE:

The appellants import and sell the brown coconut (watery coconut) from the States of Andhra Pradesh, Kerala, Karnataka and Tamil Nadu and sell the same in the city of Ahmedabad as their trading activity. Under the Municipal Corporation rules, whenever goods are carried into or out of the octroi limits of the Municipal Corporation, the articles specified under the rules are liable to octroi, except of course those exempted under Item 10 of Rule 4. The respondents levied octroi on brown coconuts at the rate of Rs.1 per 100 kgm. at the point of import into the octroi limits of the Respondent's corporation. The rate was later enhanced to Rs.5 per 100 kg. The appellants challenged the levy of octroi on brown coconuts by means of filing a writ petition contending that brown coconuts are green fruits within the meaning of item 10 of rule 4 of the Rules and therefore, they are exempted articles, not exigible to octroi. The High Court rejected the writ petition. Hence this appeal, by special leave.

Dismissing the appeal, this Court,

HELD: The watery coconut (brown coconut) is not a green fruit but is a separate entity by itself. It cannot also be considered to be a dry fruit within the meaning of entry 11 of Rule 4. Dried fruit is distinct from the coconut. Therefore, the watery coconut (brown coconut) does not fall within the meaning of item 13B of Rule 4. of the Rules also. All articles or goods which are not specified elsewhere in the schedule or in the list of exempted articles or goods would fall under item 55 of Rule 14. Brown coconut is not an exempted article among the list of articles in item 10 of Rule, namely, green fruit. Brown coconut (watery coconut) would fall within item 55 of Rule 14 of the Rules and is exigible to octroi. [397D-E]

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Ramavtar Budhaiprasad v. Asstt. Sales Tax Officer, Akola, [1961] 12 STC 286; Commissioner of Sales Tax,

U.P.v.S.N. Brothers, [1973] 31 STC 302; P.S. Thillai Chidambara Nadar v. Addl. Appellate Asstt. Corotar., Madurai and Anr., [1985] 60 STC 80; Sri Krishna Coconut Co. v. Commercial Tax Officer, Amalapuram, [1965] 16 STC 511; Kunchi Rajeshwara Sastry and Sons and Anr. v. Asstt. Commissioner of Commercial Taxes, Kakinada and Ors., [1976] 37 STC 399; Sri Lakshmi Coconut Industries v. The State of Karnataka and Anr., [1980] 46 STC 404; Deputy Commissioner of Agrl. Income $\bar{A}$ 73 and Commissioner of Sales-tax v. Ram Kumar Nand Kumar, [1973] 31 STC 321, referred to.

JUDGMENT:

JUDIS