Deputy Commissioner of Sales Tax Vs Sheth Brothers

T.R.C. No. 118 of 1981

Court: High Court Of Kerala

Date of Decision: Nov. 19, 1981

Acts Referred:
Central Sales Tax Act, 1956 â€" Section 5

Citation: (1983) 52 STC 40

Hon'ble Judges: P. Subramonian Poti, Acting C.J.; K. Bhaskaran, J

Bench: Division Bench

Advocate: Government Pleader, for the Appellant;

Final Decision: Dismissed

Judgement

Subramonian Poti, Ag. C.J.

1. In this revision, the State contends that when an exporter of pepper purchases pepper and after the process of garbling, exports such pepper, it

is not a purchase in the course of such export despite Section 5(3) of the Central Sales Tax Act for the reason that the goods exported, according

to the State, is not the same as goods purchased by the exporter. Section 5(3) of the Act reads :

(3) Notwithstanding anything contained in Sub-section (1), the last sale or purchase of any goods preceding the sale or purchase occasioning the

export of those goods out of the territory of India shall also be deemed to be in the course of such export, if such last sale or purchase took place

after, and was for the purpose of complying with, the agreement or order for or in relation to such export.

2. Any purchase occasioning the export of goods out of the territory of India shall be deemed to be in the course of such export by reason of Sub-

section (3) of Section 5. The purchase by the exporter is a purchase occasioning the export of goods out of the territory of India. On this there is

no dispute. But the dispute is that the export must be of the same goods as that purchased and not export of different goods. We cannot agree with the counsel that merely because pepper purchased by an exporter is subject to process, the process being one of cleaning and making it presentable for the export market, it will cease to be the same as it was. Pepper does not undergo a process which changes its character so as to render it a different commodity in commerce. What is purchased by the exporter was pepper and what is sold by him is pepper. Garbling, as rightly presented by the Appellate Tribunal, is a process which makes it fit to be introduced into the export market. Even according to the department as pointed out by the Appellate Tribunal the process of garbling involves only work such as stone picking, dust removing, washing, drying, oil polishing, grading, packing, etc., which are only incidental to the presentation of the goods in proper form so that the goods may sell in the export market. There is no substance in the contention raised by the State in this tax revision case. It is dismissed.