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(1960) 01 KL CK 0053

High Court Of Kerala

Case No: Tax Revision Case No. 10 of 1957

The Deputy Commissioner of Agricultural Income Tax and Sales Tax		APPELLANT
	Vs	
Pierce Leslie and Co. Ltd.		RESPONDENT

Date of Decision: Jan. 21, 1960

Acts Referred:

- Constitution of India, 1950 - Article 286

Citation: (1960) 4 KLJ 296 : (1960) 11 STC 212

Hon'ble Judges: T.C. Raghavan, J; M.A. Ansari, J

Bench: Division Bench

Advocate: The Government Pleader, for the Appellant; G.B. Pai, P. Govindan Nair, K.V.R. Shenoi and P.K. Kurien, for the Respondent

Final Decision: Allowed

Judgement

M.A. Ansari, J.

This revision petition seeks to vary the order by the Appellate Tribunal, whereby the dealer''s appeal has been partly allowed and a sum of Rs. 67,774-11-1 has been held not liable to sales tax. The ground, on which the Tribunal has given the relief, is that the aforesaid amount represents the price of goods got through inter State sales and could not be charged because the prohibition under Article 286(2) had not been lifted. The Tribunal has further held that the Sales Tax Laws Validation Act, 1956, does not save the tax, as there were no provisions in the Travancore-Cochin Sales Tax Act authorising levy of tax on such inter-State sales. In this connection the Tribunal relies on the decision by the Travancore High Court in Cochin Coal Company''s case [1956] 7 S.T.C. 731. Since then the Supreme Court has in Sundararamier and Co. v. State of Andhra Pradesh [1958] 9 S.T.C. 298 held that

Section 2(h) read with Section 22 of the Madras General Sales Tax Act authorised levy of sales tax and therefore the provisions of the Sales Tax Laws Validation Act would be attracted to such taxes as had been levied during the period stated in the Validation Act. Section 26 of the Travancore-Cochin Sales Tax Act is similar to Section 22 of the Madras Act and so is the definition. It follows that the provisions of the Validation Act would be attracted to the tax levied on sales during 1954-55, which is within the period mentioned in the Act. Therefore the ground on which the dealer had been given relief in the case is legally incorrect and the part of the Tribunal''s order in favour of the dealer is reversed. The order of the Appellate Assistant Commissioner is restored and the revision petition is allowed with costs. Counsel''s fee fixed at Rs. 150.