

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

**Court:** High Court Of Kerala

**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 Sundaramier 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.