

C.V. Antony Vs State of Kerala and Others

Court: High Court Of Kerala

Date of Decision: July 30, 1990

Hon'ble Judges: K. Sukumaran, J; G. Rajasekharan, J

Bench: Division Bench

Advocate: M.V. Joseph, for the Appellant; N.N.D. Pillai, Sr. Government Pleader, for the Respondent

Judgement

K. Sukumaran, J.

This writ petition challenges Ext. P-4 order passed by the Government on applications made by the Petitioner on 27th

February 1982 and 19th May 1984 in relation to the tax liability on trailers in which he is dealing.

2. The Petitioner is manufacturing trailers, coming within the categories of "tractor trailers and jeep trailers." According to him, the trailers.

designed for the use of the tractors are entirely different from the trailers designed for the motor vehicles. That, according to him, deserves

recognition in relation to taxation. The Board of Revenue, in its communication dated 19th April 1966, had expressed the view that trailers were

taxable only at the rate of 3 per cent. The relevant entries in the schedule, prior to its amendment in 1967, in relation to items 7 and 8, read as

follows:

Item No. 7:

All varieties of tractors and bulldozers.

Item No. 8:

Motor Vehicles including chassis of motor vehicles, Motor tyres and tubes and spare parts of motor vehicles including batteries, motor cycles and

cycle combinations, motor scooters, motorettes, tyres, tubes and spare parts of motor cycles, motor scooters and motorettes.

The amended entries read as follows:

Item No. 7:

All varieties of tractors and bulldozers and spare parts thereof.

Item No. 8:

Motor vehicles, Chassis of motor vehicles, trailers, motor bodies built on the chassis of motor vehicles, motor tyres, tubes (* * *) and other spare

parts and accessories of motor vehicles, motor cycles and cycles combinations, motor scooters, motorettes and tyres, tubes and other spare parts

and accessories of motor cycles, motor scooters and motorettes.

3. The Sales Tax Act underwent major amendment by Act 19 of 1980 which was effective from 16th September 1980. There was a dislocation of

the various items and drastic changes including assignment of new numbers. Items 25 and 138 are the relevant entries. After the amendment, they

read:

Item 25.-All varieties of tractors, power tillers and bulldozers and spare parts, component parts of tyres and tubes thereof.

Item 138.-Motor vehicles, motor vessels, motor engines, chassis of motor vehicles, trailers, motor bodies built on the chassis of motor vehicles,

bodies built for motor vessels, or engines and spare parts and accessories thereof.

4. Under Ext. P-4, Government took the view that trailers will come within item 138 of the schedule after 16th September 1980, the date of the

coming into force of Act 19 of 1980.

5. The question before us is whether that view is unsustainable.

6. The entry is wide in its sweep. It takes in not merely motor vehicles and motor vessels and motor engines; but allied items without the propulsion

of motor are also in the entry. Thus, we find that trailers, motor bodies built on the chassis motor vehicles or bodies built for motor vessels or

engines, have all been brought within the entry. When such is the drastic nature of the change effected, it is difficult to say that any particular type of

trailors are excluded from the entry. The term trailors is of a general nature and description. It may be that among the generality of the trailors,

some may have their peculiar characteristics, which may result in functional disparities. The entry, however, does not make any recognition of such

structural difference or divergence. Trailors, whatever be their attributes, manufacturing patterns and utilities, will come within entry 138. The

clarification given by the Government under Ext. P-4 cannot, therefore, be characterised as unjustified. De hors the exercise of the power u/s 59-

A, the view taken by the Government appears to be correct.

7. Counsel rightly relied on Exts- P-1 and P-2, communications emanating from the Board of Revenue (Ext. P-1) and from the Government (Ext.

P-2) which, according to him, support his contentions. We are not called upon to express our view on them. This Court has to interpret on its own,

the relevant entries in accordance with well-settled principles of law.

8. On a plain interpretation of the statutory scheme and the schedule, we hold that Entry 138 will take in the trailors. The view expressed in Ext- P-

4 does not call for any interference. even if the competence of the Government under 59-A is in doubt. In that view of the matter, we dismiss the

original petition, but without any order as to costs.