

(1988) 09 MP CK 0020

Madhya Pradesh High Court (Indore Bench)

Case No: M.C.C. No. 45 of 1986

Commissioner of Sales Tax

APPELLANT

Vs

Malwa Vanaspti and Chemicals
Co. Ltd.

RESPONDENT

Date of Decision: Sept. 21, 1988

Acts Referred:

- Central Sales Tax Act, 1956 - Section 14

Citation: (1989) 72 STC 296

Hon'ble Judges: G.G. Sohani, Acting C.J.; K.M. Agarwal, J

Bench: Division Bench

Advocate: Samvatsar, for the Appellant; Kohli, for the Respondent

Judgement

K.M. Agarwal, J.

This is a reference u/s 44(1) of the Madhya Pradesh General Sales Tax Act, 1958 (in brief, "the Act"), at the instance of the department. The Tribunal has referred to this Court the following question of law for its decision :

Whether the Board of Revenue was justified in holding that husk of groundnut is taxable under entry No. 4 of Part IV of Schedule II when it is not specifically covered under the said entry or any other entry and would, therefore, be covered in entry No. 1 of Part VI of Schedule II of the Madhya Pradesh General Sales Tax Act, 1958 ?

2. During the calendar year 1969, the assessee was taxed on sales of groundnut husk under residuary entry No. 1 of Part VI of Schedule II of the Act by the assessing authority. In first appeal, the order of assessment was maintained. In second appeal, the Tribunal came to the conclusion that the groundnut husk could not be taxed at a rate higher than the tax on sale of groundnut. Accordingly the sale of groundnut husk was held liable to be taxed under entry No. 4 of Part IV of Schedule II of the Act and not under entry No. 1 of Part VI of Schedule II of the Act. Being aggrieved, the department applied for a reference and accordingly the Tribunal has

referred to us the aforesaid question of law for our decision.

3. Entry No. 4 of Part IV of Schedule II of the Act refers to "oilseeds as specified in Clause (vi) of Section 14 of the Central Sales Tax Act, 1956" (in short, the "Central Act"). In Clause (vi)(i) of Section 14 of the Central Act, groundnut or peanut has been specified as one of the oil-seeds. The word "groundnut" appearing in Rule 4(2) of the Madras General Sales Tax (Turnover and Assessment) Rules, 1939 was held to include groundnut kernel also in *Motilal Hariprasad and Brothers v. State of Andhra* [1955] 6 STC 654 (Ap) and in [Berar Oil Industries and Another Vs. Deputy Commissioner of Commercial Taxes](#). Following these decisions, we are of the view that the word "groundnut" used in Section 14(vi)(i) of the Central Act would include both shelled and unshelled groundnuts. Now if shelled or unshelled groundnut is liable to tax under entry No. 4 of Part IV of Schedule II of the Act, we are unable to understand as to how and why the shell or the husk of groundnut should be subjected to higher rate of tax under entry No. 1 of Part VI of Schedule II of the Act. We are, therefore, of the view that the Tribunal was right in holding that the husk of groundnut was liable to tax under entry No. 4 of Part IV of Schedule II of the Act; and not under entry No. 1 of Part VI of Schedule 11 of Act. Accordingly we answered the said question of law in favour of the assessee and against the department.

4. In the circumstances of the case, we make no order as to costs of this reference.