

## **Dy. Commissioner Of Sales Tax (Law), ... vs Coco Fibres on 4 December, 1990**

**Equivalent citations: 1991 AIR 378, 1990 SCR SUPL. (3) 419, AIR 1991 SUPREME COURT 378, 1991 AIR SCW 8, (1990) 4 JT 618 (SC), 1990 (4) JT 618, 1992 (1) SCC(SUPP) 290, 1991 KERLJ(TAX) 110, 1991 (1) UPTC 233, 1991 UPTC 1 233, 1992 SCC (SUPP) 1 290, (1991) 53 ELT 515, (1991) 31 ECC 226, (1991) 32 ECR 161, (1991) 1 KER LT 129**

**Author: K. Ramaswamy**

**Bench: K. Ramaswamy, Kuldeep Singh**

PETITIONER:

DY. COMMISSIONER OF SALES TAX (LAW), BOARD OF REVENUE (TAXES,)

Vs.

RESPONDENT:

COCO FIBRES

DATE OF JUDGMENT 04/12/1990

BENCH:

RAMASWAMY, K.

BENCH:

RAMASWAMY, K.

KULDEEP SINGH (J)

CITATION:

1991 AIR 378                      1990 SCR Supl. (3) 419

1992 SCC Supl. (1) 290 JT 1990 (4) 618

1990 SCALE (2) 1214

ACT:

Kerala General Sales Tax Act: Section 5A-- 'Coconut husk'  
Whether coconut fibre a separate identity from 'Coconut husk'.

HEADNOTE:

The assessee is a registered dealer under the Kerala General Sales Tax Act. In its return of taxable turnover, the assessee excluded the value of coconut husks purchased and converted into coconut fibre on the ground that there was no manufacturing process involved in making fibre from

coconut husk.

The Sales Tax Officer as well as the Appellate Authority negatived the assessee's claim. The Sales Tax Appellate Tribunal however, allowed the assessee's revision, and the High Court confirmed the order of the Tribunal.

Allowing the appeal of the Revenue, this Court,

HELD: (1) By the process of manufacture something is produced and brought into the existence which is different from that, out of which it is made in the sense that the thing produced is by itself a commercial commodity capable of being sold or supplied. The material from which the thing or product is manufactured may necessarily lose its identity or may become transformed into the basic or essential properties. [421D-E]

Ujagar Prints v. Union of India, [1989] 3 SCC 488, referred to.

(2) The test laid down by this Court is that the article which comes into being must be commercially different from the one from which it is made or manufactured. [422D]

State of Bihar v. Chrestien Mica Industries Ltd., [1956] 7 S.T.C. 626 and Commissioner of Sales Tax v. Harbilas Rai & Sons, [1968] 21 S.T.C. 17 (S.C.), referred to.

(3) In view of the admitted position that green husk is soaked into saltish sea water for days together and after decomposition, on being subjected to beating either by manual or mechanical process, fibre is produced in the process, which is a distinct commodity known in the  
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commercial parlance. No one in the market would sale or supply husk when fibre is asked for. [422E]

Dy. Commissioner of Sales Tax (Law) v. Pie Food Packers, [1978] 41 S.T.C. 364, distinguished.

(4) The Coconut fibre is commercially a different identifiable commodity known as such in commercial parlance. Therefore, the value of sale or purchase of coconut husk would attract purchase tax under section 5-A of the Sales Tax Act. [422G]

JUDGMENT: