

State Of Kerala vs Jay Engineering Works Ltd., Ernakulam on 18 February, 1983

Equivalent citations: 1983 AIR 369, 1983 SCC (2) 81, AIR 1983 SUPREME COURT 369, 1983 TAX. L. R. 2856, 1983 UJ (SC) 291, 1983 STI 9, 1983 SCC(TAX) 89, 1983 UPTC 729, 1983 TAXATION 69 (7) 5, 1983 (2) SCC 81, (1983) 53 STC 97

Author: E.S. Venkataramiah

Bench: E.S. Venkataramiah, P.N. Bhagwati

PETITIONER:
STATE OF KERALA

Vs.

RESPONDENT:
JAY ENGINEERING WORKS LTD., ERNAKULAM

DATE OF JUDGMENT 18/02/1983

BENCH:
VENKATARAMIAH, E.S. (J)
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VENKATARAMIAH, E.S. (J)
BHAGWATI, P.N.

CITATION:
1983 AIR 369 1983 SCC (2) 81
1983 SCALE (1) 151

ACT:

Kerala General Tax Rules, 1963, Rule 9(b) (f) Scope of-
Claim for deduction, in respect of goods returned by the
purchasers, should be made in the same assessment year in
which they were sold.

HEADNOTE:

Allowing the appeal, the Court

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HELD: Any claim for deduction in respect of goods
returned by the purchasers under Rule 9(b) (i) of the Kerala
General Sales Tax Rules, 1963 should be made in the
assessment proceedings relating to the year in which the
said goods were sold and not in the assessing proceedings

relating to the assessment year in which they were returned.
[362 A-B]

Deputy Commissioner of Sales Tax (Law) Board of Revenue
(Taxes), Ernakulam v. Messers Motor Industries Co.,
Ernakulam, [1983] 2 S.C.R. 384 followed.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 2291 of 1980.

Appeal by Special Leave from the Judgment and order dated the 21st November, 1978 of the Kerala High Court in TRC No. 31 of 1978.

P.K. Pillai for the Appellant.

C. Agarwala for the Respondent.

The Judgment of the Court was delivered by VENKATARAMIAH, J. This appeal is filed against the judgment dated November 21, 1978 of the High Court of Kerala in The Jay Engineering Works Ltd. v. State of Kerala(1).

In Deputy Commissioner of Sales Tax (Law), Board of Revenue (Taxes), Ernakulam v. M/s. Motor Industries Co., Ernakulam(2), we have held that any claim for deduction in respect of goods returned by the purchasers under Rule 9 (b) (i) of the Kerala General Sales Tax Rules, 1963 should be made in the assessment proceedings relating to the year in which the said goods were sold and not in the assessment proceedings relating to the assessment year in which they were actually returned. following the above decision we set aside the judgment of the High Court in this case and direct that the assessment order for the year 1972-73 shall be accordingly modified. As a consequence of this order, the Department is directed to modify the assessment order for the assessment year 1971-72 by allowing deduction under Rule 9 (b) (i) of the Kerala General Sales Tax Rules, 1963 and to make refund of any excess tax paid during that year.

The appeal is accordingly allowed. No costs.

S.R.

Appeal allowed.