

State Of Madras vs M.R. Krishnaswami Naidu And Ors., Etc. on 14 April, 1970

Equivalent citations: AIR1970SC1027, (1971)3SCC831, [1970]26STC42(SC), AIR 1970 SUPREME COURT 1027

Author: J.C. Shah

Bench: A.N. Grover, J.C. Shah, K.S. Hegde

JUDGMENT

J.C. Shah, J.

1. These appeals raise a common question. The respondents are dealers in groundnut oil. In the assessment years 1959-60 and 1960-61 they sold quantities of groundnut oil set out in the table below to the Hindustan Lever Ltd.:

C.A.	Name of Period of Value of No. respondent sale groundnut oil
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2282	R.N. Krishnaswami Naidu & Sons 1959-60 Rs. 3,73,229.06	2283	A.S. Arunachalam Chettiar 1959-60 " 5,14,106.01	2284	K. Mummudi Chettiar and Co. 1960-61 " 10,27,939.32	2285	K.S. Mohammed Ghani Rowther 1959-60 " 2,03,709.96	2286	V. Krishna Chettiar and Bros. 1960-61 " 2,48,445.95	2287	V.N.M.A. Rajendra N a d a r & B r o s . C o . 1 9 5 9 - 6 0 " 1 , 5 1 , 2 4 1 . 2 4
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2. The groundnut oil supplied to the Hindustan Lever Ltd. was intended to be and was used for manufacturing vanaspati.

3. In proceedings for assessment to sales tax, the respondents claimed that they were liable to pay tax at a concessional rate under Section 3(3) of the Madras General Sales Tax Act, 1959. That contention was rejected by the Additional Commercial Tax Officer and the order was confirmed by the Sales Tax Appellate Tribunal. The High Court set aside the orders holding that the respondents were entitled to claim the concessional rate under Section 3(3) of the Act. The State of Madras has appealed to this Court with certificate granted by the High Court.

4. The relevant provisions of the Act may first be set out. Section 3 provides, in so far as it is relevant:

(1) Every dealer...whose total turnover for a year is not less than ten thousand rupees...shall pay a tax for each year at the rate of two per cent, of his taxable turnover....

(2) Notwithstanding anything contained in Sub-section (1) in the case of goods mentioned in the First Schedule, the tax under this Act shall be payable by a dealer, at the rate and only at the point specified therein on the turnover in each year relating to such goods whatever be the quantum of turnover in that year.

(3) Notwithstanding anything contained in Sub-section (1) or Sub-section (2), the tax payable by a dealer in respect of any sale of goods mentioned in the First Schedule by such dealer to another for use by the latter as component part of any other goods mentioned in that Schedule, which he intends to manufacture inside the State, for sale shall be at the rate of only one and a half per cent, of the turnover relating to such sale :...

Explanation.-For the purposes of this sub-section, component part means an article which forms an identifiable constituent of the finished product and which along with others goes to make up the finished product.

5. The First Schedule to the Act contains a large number of entries. The entries material at the relevant time were entry 20 "All vegetable oils ", and entry 45 " Vegetable products, that is to say, any vegetable oil or fat, which whether by itself or in admixture with any other substance, has by hydrogenation or by any other process been hardened for human consumption." Groundnut oil clearly fell within entry 20, and vanaspati was covered by entry 45. There is also no dispute that groundnut oil forms the major component of vanaspati.

6. The taxing authorities rejected the claim of the respondents on the ground that groundnut oil is not a component part of vanaspati because it does not form "an identifiable constituent of the finished product", i.e. vanaspati. The High Court held that groundnut oil constitutes a component part of vanaspati. The finding of the High Court is supported by clear evidence on the record. Mr. R. Mahadevan, Factory Manager, Hindustan Lever Ltd., has stated in his affidavit that the vanaspati manufactured by the Hindustan Lever Ltd. contained the following three vegetable oils as component parts :

Percentage of oil used. (i) Groundnut oil 85 to 95 (ii) Sesame or gingelly oil
5 (iii) Cotton-seed oil 0 to 10

7. According to Mr. Mahadevan the groundnut oil is the major component in the manufacture of vanaspati and vanaspati may be manufactured by using groundnut oil alone without adding any of the other two oils; that the use of 5 per cent, sesame or gingelly oil in the manufacture of vanaspati was made obligatory by the Government of India under the Vegetable Oil Products Control Orders with a view to detect adulteration in other products, such as ghee etc., by the mixture of vanaspati; and that groundnut oil was an identifiable component part of vanaspati manufactured by the

company. He further stated that the presence of the three oils mixed in the manufacture of vanaspati can be identified by carrying out three tests-(1) Baudouin test for detecting the presence of sesame oil, (2) Halphen test for detecting the presence of cotton-seed oil; and (3) Bellier test for detecting the presence of groundnut oil. No evidence contradicting the statements of Mr. Mahadevan was laid before the taxing authorities.

8. It was, however, urged on behalf of the State that an article is a component part within the meaning of the Explanation to Section 3(3) of the Act only if it is capable of being identified visually in the final product. We are unable to accept that contention. The Legislature has not provided that before a component part may qualify for the concessional rate of tax, it must be capable of visual identification in the finished product. A reference to the entries in the First Schedule clearly indicates that the benefit of Section 3(3) may not be obtained in respect of any raw material supplied for manufacture of finished products, if the test of visual identification be adopted. In our judgment, if the component is capable of identification by a chemical or other test as a component of a finished product falling within the Schedule, it would be an identifiable constituent within the meaning of Section 3(3), Explanation, and the sale of the component would qualify for the concessional rate of tax. The High Court was, in our judgment, right in holding that the respondents were liable to tax only under Section 3(3) and not under Section 3(1) of the Act.

9. The appeals fail and are dismissed with costs. One hearing fee.