

Cement Marketing Co. of India Ltd.

Vs

Assistant Commissioner of Sales Tax, Indore Region, Indore and Others

Civil Appeals Nos. 2910-2912 of 1979

(P.N. Bhagwati, V.D. Tulzapurkar, E.S. Venkataramiah JJ)

30.10.1979

JUDGMENT

BHAGWATI, J. –

1. The facts giving rise to these appeals are similar to those in Civil Appeal 191-193 of 1978 (Cement Marketing Co. of India v. Commr. of Commercial Taxes, (1980) 1 SCC 71 : 1980 SCC (Tax) 64) with only this difference that the assessment period with which we are concerned in these appeals is August 1, 1972 to December 31, 1972 and the figures of sales tax and penalty are different. The Judgment given by us in Civil Appeal 191-193 of 1978 must, therefore, govern equally the decision of these appeals and we must hold that the amount of freight formed part of the sale price within the meaning of the first part of the definition of that term in Section 2 (o) of the Madhya Pradesh General Sales tax Act, 1958 and Section 2(h) of the Central Sales tax Act, 1936 and was rightly included in the taxable turnover of the assessee and the appeals must, therefore be rejected insofar as they are directed against the inclusion of the amount of freight in the taxable turnover of the assessee but so far as the imposition of penalty is concerned, the appeals must be allowed and the orders passed by the Assistant Commissioner of Sales tax imposing penalty on the assessee must be quashed and set aside.

2. There will be nor order as to costs of the appeals.

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