

State of Kerala

Vs

M/S Jay Engineering Works Limited, Ernakulam

Civil Appeal No. 2291 of 1980

(P.N. Bhagwati, E.S. Venkataramiah JJ)

18.02.1983

JUDGMENT

VENKATARAMIAH, J.-

1. This appeal is filed against the judgment dated November 21, 1978 of the High Court of Kerala in Jay Engineering Works Ltd. v. State of Kerala(43 STC 492).
2. In Deputy Commissioner of Sales Tax (Law), Board of Revenue (Taxes), Ernakulam v. M/s Motor Industries Co., Ernakulam((1983) 2 SCC 108), 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 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.
3. The appeal is accordingly allowed. No costs.

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