

Sait Rikhaji Furtarnal and another

Vs

State of A.P.

Civil Appeals Nos. 1484-85 of 1981

(Ranganath Misra, M.M. Punchhi JJ)

31.08.1990

ORDER

1. The short question involved in these two appeals arises out of the decision of the High Court of Andhra Pradesh in regard to eligibility of sales-tax in respect of four items being (1) sale of Jeera, methi, ajwain, saunf and cardamom; (2) sale of wet dates; (3) sale of old newspaper; and (4) transaction of mustard oil - whether they are first purchase or not?
2. We are concerned with the assessment year 1973-74. It is not in dispute that just before the commencement of the year, by amendment of the Andhra Pradesh General Sales Tax Act oil seed has been defined in a way different for what existed prior to the amendment.
3. The High Court found against the assessee on all scores.
4. Mr. Rangam appearing in support of the appeals contended that there was a circular of Government of India with reference to the provisions of the Central Sales Tax Act as to what would be included within the meaning of oil seeds and all the five items referred to here were included in the circular as being oil seeds. It is difficult for us to accept his submission that after the Act has been amended reliance is available to be placed on the circular. On the basis of the test indicated by this Court in *State of Tamil Nadu v. Pyarelal Malhotra*, (1976) 37 STC 319 : (AIR 1976 SC 800), we must hold that the expression that is to say 'employed in the definition in the statute with reference to oil seeds is exhaustive, and is not illustrative. Since on amendment these five items are no more included in oil seeds', the appellant is not entitled to claim the benefit.
5. It has been found that wet dates are not fresh fruits on account of the fact that they are imported from outside the country after necessary processing. The finding is one of the fact and we do not propose to interfere with the conclusion. Similarly the finding regarding mustard oil must also be taken to be one of fact.
6. In regard to old newspaper, it is the submission of counsel that even if the newspapers are not of the same date or of a current period, their contents had news value and thus they continued, to be the newspapers and the mere fact that they were out of date did not take away the news element therefrom. This Court in a recent judgment held a law journal to come within the meaning of newspaper though not carrying news of contemporary period. On the ratio of that decision the contention of the appellant that old newspapers are also "newspaper" and would be entitled to the exemption provided under the Constitution is acceptable. We accordingly uphold the contention of

the appellant and direct that the old newspaper when sold as such would be covered by the exemption provided in the Constitution and sale thereof would not be liable to sales-tax. The appeals are allowed so far as the sale of old newspaper is concerned and are dismissed with regard to the three other items indicated above. The appropriate modification may be carried out by the Assessing Authority. No costs.

Order accordingly.

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