

Shiv Shakti Gold Finger

Vs

Asstt. Commissioner, Commercial Taxes, Jaipur

Civil Appeal No. 9074 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

10.05.1996

JUDGMENT

1. Leave granted.

2. This appeal by special leave arises from the order and judgment dated 18-4-1991 made in Sales Tax Revision No. 110 of 1987 by the High Court of Rajasthan, Jaipur Bench. The respondent State exercising the power under Section 4(2) of the Rajasthan Sales Tax Act, 1954 (29 of 1954), (for short, 'the Act') by a notification dated 9-3-1970 had exempted Papad and Badi, i. e, Mangori from sales tax. When the appellant made an application for exemption of Cole Papad manufactured out of Maida, Salt Starch, Papad Soda, Alum and food colour from sales tax under the above notification, the Additional Commissioner by proceedings dated 27-8-1982 held that Cole Papad was not covered by the notification. When the appeal came to be filed, the Sales Tax Tribunal by its order dated 17-3-1986 allowed the appeal and held that the notification would govern all varieties of Papad, whether they are circular or flat in shape consisting of all the ingredients whether it is pulses, rice, maida, etc. When the State carried the matter in revision, it came to be allowed by the High Court and it held that the appellant is not entitled to the exemption. Thus this appeal by special leave,

3. It is seen that the notification clearly mentions that the word 'Papad' has been used a genus and its species are made from pulses, rice, maida, potato, sage etc, In the notification the words "Papad and Badi", i. e, Mangori have been used while in entry No. 3 of the notification after the words "letterhead pads" the words "other stationery articles made of handmade paper" have been used meaning thereby that entry No. 3 is not restricted to only invitation cards, envelopes, file covers, letterhead pads but also includes other stationery articles made of handmade paper. The question is: whether the ingredients of Papad are exclusively composed of pulses or maida or rice, etc.? When the notification mentions Papad and Badi, i. e. Mangori it would appear that they did not intend to differentiate between gole or flat Papad made of any ingredient.

4. Under those circumstances it appears that the interpretation given by the High Court is not correct and that of the Tribunal is correct.

5. The appeal is allowed and if there is any difficulty it would be open to the Government to make necessary declaration in exemption notification itself by way of amendment. No costs.