

SUPREME COURT OF INDIA

A.A. Sulaiman

Vs.

Dy. Commissioner of Sales Tax

(A A.M., K Paripoornan and S Kurdukar JJ.)

20.03.1997

ORDER

1. The question which arises for determination in these appeals by the assessee is whether the appellant who purchases dry bones and converts them into bone-meal for sales as such in the market can be said to be liable to pay purchase tax under Section 5-A(1) of the Kerala General Sales Tax Act, 1963 (hereinafter called "the Act"). The relevant assessment years are 1975-76 to 1978-79.

2. This question is resolved in favour of the assessee and against the Revenue by the decision of the Madras High Court in *State of T.N. v. Subbaraj & Co.* The appeal lodged against this decision of the Madras High Court was dismissed in limine by this Court in SLPs (C) Nos. 10810-11 of 1981 and 3481-83 of 1982 on 30-7-1984. Therefore, this decision of the Madras High Court is holding the field since it came to be decided on 23-9-1980. Having regard to the fact that this Court rejected the special leave petitions filed questioning the correctness of the view taken in this case, we also do not see any reason why we should take a different view.

3. In the result, we allow these appeals, set aside the order of the High Court and restore the view taken by the Appellate Tribunal on this point. No order as to costs.

