

SUPREME COURT OF INDIA

State of Kerala

Vs.

Namputhiris Pickle Industries

(S Bharucha and K Venkataswami JJ.)

19.03.1998

ORDER

1. The question in these cases is whether chilli and chilli powder are different products, both exigible to sales tax. The chilli powder is produced from chillies on which sales tax under the same entry has been paid. Whether the chilli powder is the result of a process of manufacture which the chillies have undergone and whether chilli powder is a commodity commercially distinct from chillies are questions of fact to answer which the party proposing that the chilli powder is also exigible to tax must place relevant evidence before the appropriate taxing authority. In the instant case, the sales tax authorities should have placed such material to establish that the chillies underwent some process or manufacture and that the end product, namely, chilli powder, was recognised by those who dealt in it as being distinct from chillies. They did not do so. Upon this ground alone, therefore, we decline to interfere with the judgments under appeal. The appeals are, accordingly, dismissed with no order as to costs.