

# SUPREME COURT OF INDIA

Kanthimathi Plantations Ltd.

Vs.

State of Tamil Nadu

(S Bharucha and S R Babu JJ.)

03.12.1998

## ORDER

1. The appeals are directed against the judgment and order of a Division Bench of the High Court of Madras. The issue relates to the sale of unyielding rubber trees by the appellant plantation during the assessment years 1975-76, 1976-77 and 1977-78.
2. There were two agreements by which the appellant sold the unyielding rubber trees. One agreement, dated March 30, 1974, expressly split the consideration thereunder between that for latex and that for fuel. The High Court held that in the face of the specific recital in this behalf in that agreement, the appellant was not justified in contending that the entire amount payable thereunder related only to the fuel value of the rubber trees and not to the value of the latex and was, thus, a capital receipt. This, in our view, is an unassailable conclusion.
3. In regard to the second agreement, dated February 17, 1975, however, the High Court noted that the consideration thereunder had not been so split and there was no recital in this behalf. Even so, the High Court said that the fact that the earlier agreement had treated practically 2/5ths of the consideration as payable for the latex, that portion of the consideration payable under the second agreement should be presumed to relate to the latex and should be taxed as a revenue receipt. In this regard, we cannot agree with the High Court. We do not think that such a presumption was justified in the absence of a recital in the agreement or any other factor which indicated that latex was present

and recoverable from the unyielding trees covered by the second agreement.

4. In the circumstances, the appeals are allowed only to the extent hereinbefore stated. There shall be no order as to costs.