SUPREME COURT OF INDIA

State of Kerala

Vs.

M/S. Vattukalam Chemicals Industries

C.A.No.5418-5420 of 1997

(S.P. Bharucha, Y.K. Sabharwal and Ashok Bhan JJ.)

23.08.2001

JUDGMENT

1. We are called upon to interpret a notification (499/90) issued under the provisions of the *Kerala General Sales Tax Act, 1963*. The relevant portion thereof reads thus:

> ".. the Government of Kerala having considered it necessary in the public interest so to do hereby make an exemption in respect of the tax payable under the said Act by new industrial units under the Small Scale Industries and by such of the existing industrial units which effect diversification, expansion, modernisation on the turnover of sale of goods manufactured and sold by such units and on the turnover of goods taxable at the point of last purchase in the State and used by such units in the manufacture of goods intended for sale within the State or interstate."

2. The Kerala Sales Tax Appellate Tribunal opined that the notification contemplates exemption only on the turnover of goods taxable at the point of last purchase in the State and used by such units in the manufacture of goods within the State. It is an undisputed fact that the copper scrap is not goods taxable at the point of last purchase in the State. .. What has been given exemption in SRO 499/9 is the turnover of goods taxable at the point of last purchase in the State. The goods taxable at the point of last purchase are specifically enumerated in the last schedule of the Kerala General Sales Tax Act, such as Pepper, Dry Ginger, Arecanut, Rubber, etc. The turnover under Section 5A is not mentioned in this notification. It is a well settled law that the primary object of a Sales Tax statute is to fetch the tax and giving exemption is only a concession of the Government, and so, the exemption notification has to be strictly interpreted.

3. The High Court of Kerala, in the judgment and order under appeal, has taken no notice of the words of the notification that make it applicable to the turnover of goods taxable at the point of last purchase in the State.

4. The respondent-assessee purchased copper scrap for use in the manufacture of copper sulphate. It is an admitted position that copper scrap is not taxable at the point of last

purchase in the State. On the plain words of the notification, the exemption given thereby is, therefore, not available to copper scrap and, therefore, to the particular copper scrap purchased by the assessee.

5. The argument of learned counsel for the assessee is that the assessee had purchased the particular copper scrap from unregistered dealers so that, insofar as the particular copper scrap was concerned, it became taxable at the point of last purchase in the State and, therefore, the particular copper scrap was entitled to the exemption given by the notification. The argument is misplaced. The notification applies to goods of the description that are taxable at the point of last purchase in the State under the Act. The particular copper scrap is not goods of a description which are taxable under the Act at the point of last purchase in the State. The particular copper scrap is, therefore, not entitled to the benefit of the exemption under the notification. The question is not whether the particular copper scrap which the respondent purchased became, by reason of circumstances, taxable at the point of last purchase in the State but whether copper scrap as a description of goods is taxable under the Act at the point of last purchase in the State. Since it is not, the benefit of the notification does not extend to the particular copper scrap purchased by the respondent.

6. Learned counsel for the assessee sought to rely upon the objects of the notification in aid of the interpretation that he sought to place upon it. The language of the notification being crystal clear, no external aid to its construction is required.

7. The appeals are allowed. The judgment and order under appeal is set aside. The order of the Tribunal is restored. The respondent-assessee shall pay to the appellant the costs of the appeals.

8. C.A. No. 5665 of 1998 & C.A. No. 5676 of 1998 The orders of the High Court of Kerala that are impugned in these appeals follow the judgment and order of that High Court in the case of Vattukalam Chemical Industries, which judgment and order we have just set aside. Accordingly, these appeals are allowed and the orders under challenge are set aside.