

**SUPREME COURT OF INDIA**

Kerala State Warehousing Corporation

Vs.

State of Kerala

C.A.No.7391 of 2003

(S. N. Variava and A. K. Mathur JJ.)

01.09.2004

**JUDGMENT**

**S.N.Variava, J.**

1. This Appeal is against the Judgment of the Kerala High Court dated 17th December, 2002. The question is whether the Appellant is liable to pay sales tax in respect of cement which it imports for the purpose of distribution to various parties in the State of Kerala. All the authorities below have held that the Appellant, being a canalising agency, is not acting as an agent and collecting commission but is actually purchasing in its own name and then selling to persons who require cement. On these findings, it has been held that the Appellant is liable to pay sales tax.

2. Mr. Iyer, learned senior counsel appearing for the Appellant submits that no authority has actually gone into facts to ascertain the manner in which the Appellant actually transacts. He suggests that the matter be remitted back to the lower authority for ascertainment of facts.

3. We are unable to accept this submission. We find from the orders below that there are "high sea sales" in favour of the Appellant.

4. This shows that the Appellant had become the owner of the cement. Once the Appellant had become owner, the only way by which the Appellant could transfer title, is by way of sale. Therefore on facts already ascertained, it cannot be said that there is any infirmity in the impugned judgment or in the findings of the lower authorities.

5. We, thus, see no reason to interfere. The Civil Appeal is dismissed. No order as to costs.