

# KERALA HIGH COURT

Paul Lazar

Vs

State of Kerala

(V.B Eradi, C.J. T K Thommen, J.)

02.08.1977

## JUDGMENT

### **T. Kochu Thommen, J.**

1. The only question which arises in this tax revision case is whether copper wire is a component part of electrical transformers. The Sales Tax Officer held that it was not and his decision was confirmed in appeal by the Appellate Assistant Commissioner as well as by the Sales Tax Appellate Tribunal.

2. The assessee is a dealer in copper wires and other goods. He sells copper wires to the Indian Transformers Ltd., Alwaye. It is not disputed that these wires are used by the buyers in the process of manufacturing transformers. During the assessment year 1966-67, the assessee sold copper wires for a total sum of Rs. 1,75,843.82 to the Indian Transformers Ltd. and furnished to the department declarations in form 18 for the purpose of availing himself of the concessional rate of 1 per cent in terms of Sub-section (3) of Section 5 of the Kerala General Sales Tax Act, 1963, for short, the Act. We shall read Sub-section (3):

(3) Notwithstanding anything contained in Sub-section (1) or Sub-section (2), the tax payable by a dealer in respect of any sale of the goods mentioned in the First Schedule by such dealer to another for use by the latter as component part of any other goods mentioned in the said schedule, which he intends to manufacture inside the State for sale, shall be at the rate of only one per cent on the taxable turnover relating to such sale :

Provided that the provisions of the Sub-section shall not apply to any sale unless the dealer selling the goods furnishes to the assessing authority in the prescribed manner a declaration duly filled in and signed by the dealer to whom the goods are sold containing the prescribed particulars in a prescribed form.

3. One of the conditions which a dealer will have to satisfy before he can claim the concessional rate under the Sub-section is that the goods sold by him fell within the First Schedule to the Act. In the instant case, the goods sold by the assessee are copper wires. The question is whether these wires can be regarded as component parts of transformers which are admittedly electrical goods falling within the First Schedule. If copper wires do not fall within the First Schedule, the concessional rate would not be available to the seller of such goods. The relevant entry in the First Schedule is entry No. 26. It reads as follows:

The First Schedule Goods in respect of which single point tax is leviable under Sub-section (1) or Sub-section (2) of Section 5.

SI. No.	Description of the goods	Point of levy	Rate of tax
(1)	(2)	(3)	(4)
			(Per cent)
26	All electrical goods (other than those specifically mentioned in this schedule), instruments apparatus, appliances and all such articles the use of which cannot be had except with the application of electrical energy, including fan and lighting bulbs, electrical earthenwares and porcelain and all other accessories and component parts either sold as a whole or in parts.	At the point of first sale in the State by a dealer who is liable to tax under Section 5.	9."

4. It is contended that copper wires are component parts falling under the above entry. An article has been considered to be a component part of another when the article forms a constituent part of the latter and the latter is incomplete without the former. A body mounted on the chassis of a motor vehicle has been treated as a component part of a motor vehicle as a vehicle is incomplete without the body. Diesel engines which can ordinarily be used for various purposes, but which cannot, without the assistance of conversion-kits, be used in motor vehicles, have not been regarded as component parts of motor vehicles. A typewriter ribbon has not been treated as a component part of a typewriter as the latter is complete without the former: Commissioner of Sales Tax, Uttar Pradesh, Lucknow v. Pritam Singh [1963] 22 S.T.C. 414, Agarwala Brothers v. Commissioner of Sales Tax, Uttar Pradesh, Lucknow [1969] 23 S.T.C. 306, State of Mysore v. Kores (India) Ltd. [1970] 26 S.T.C. 87 and Kores (India) Limited, Kanpur v. State of Uttar Pradesh [1970] 26 S.T.C. 126; also the decisions cited in Deputy Commissioner of Agricultural Income-tax and Sales Tax (Law), Board of Revenue (Taxes), Ernakulam v. Union Carbide India Limited, Madras-2 [1976] 38 S.T.C. 198.

5. A component part has to be an identifiable object. It is not sufficient if the article has been used as a material or a constituent in the manufacture of the final product, like, for example, steel is used in the manufacture of transformers, motor vehicles, electric fans and the like or wood is used in the construction of boats, etc. These are raw materials used in the construction of such goods. They are not component parts in the sense that steering-wheels are to a vehicle or fan-blades are to a fan. Steering-wheels and fan-blades are identifiable as component parts and are so understood in common parlance. In order to be regarded as a component part the article so used must have a commercial identity as a distinguishable part of the whole. It is not necessary that the article should be capable of being visually identified in the finished product, so long as it can be identified by chemical or other test: State of Madras v. R.M. Krishnaswami Naidu [1970] 26

S.T.C. 42 (S.C).

6. The principle which can be deduced from the decisions cited above is that an article can be regarded as a component part of the principal object only if the latter is incomplete without the former and the former is capable of identification either visually or through chemical or other test as a distinguishable part of the finished product. Applying this test it is not possible to say that copper wire, although a necessary material or constituent used in the manufacture of electrical transformers, has an identity of its own to be regarded as a component part of electrical goods. In our view, the Tribunal was perfectly justified in observing: "Though copper wires are used as one of the materials in the production of certain electrical goods, it cannot be termed as a component part of such item." In the circumstances, the tax revision case lacks merits and it is dismissed with costs. Counsel's fee Rs. 150.