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M/S. SHIV SHAKTI GOLD FINGER

v.

ASSTT. COMMISSIONER, COMMERCIAL TAXES, JAIPUR

MAY 10, 1996

B

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Rajasthan Sales Tax Act, 1954 :*

C

*S.4(2)—Notification dated 9.3.1970—‘Papad and Badi’ (Mangori)—Exempted from sales tax—‘Gole papad’—Held, also covered by the notification—If need be, Government may make necessary declaration in exemption notification itself by way of amendment.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 9074 of 1996.

D

From the Judgment and Order dated 18.4.91 of the Rajasthan High Court in S.B.S.T.R. No. 110 of 1987.

K.K. Jain, Ajay K. Jain, Shashi Bhushan and Pramod Dayal for the Appellant.

E

Aruneshwar Gupta for the Respondent.

The following Order of the Court was delivered :

Leave granted.

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This appeal by special leave arises from the order and judgment dated April 18, 1991 made in Sales Tax Revision No. 110 of 1987 by the High Court of Rajasthan, Jaipur Bench. The respondent-State exercising the power under Section 4(2) of the Rajasthan Sales Tax Act, 1954, (for short, the ‘Act’) by a notification dated March 9, 1970 had exempted Papad and Badi, i.e. Mangori from sales tax. When the appellant made an application for exemption of Gole Papad manufactured out of Maida, Salt Starch, Papad Soda, Alum and Food colour from sales tax under the above notification, the Addl. Commissioner by proceedings dated 27.8.82 held that Gole Papad was not covered by the notification. When the appeal came to be filed, the Sales Tax Tribunal by its order dated 17.3.86 allowed

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H

the appeal and held that the notification would govern all variety of Papad, whether they are circular or flat in shape consisting of all the ingredients whether it is pulses, rice, maida, etc. When the State carried the matter in revision, it came to be allowed by the High Court and it held that the appellant is not entitled to the exemption. Thus this appeal by special leave. A

It is seen that the notification clearly mentions that the word 'Papad' has been used a genus and its species are made from pulses, rice, maida, potato, sago etc. In the notification the words "Papad and Badi", i.e. Mangori have been used while in entry No. 3 of the notification after the words "letter head pads" the words "other stationery articles made of handmade paper" have been used meaning thereby that entry No. 3 is not restricted to only invitation cards, envelopes, file covers, letter head pads but also includes other stationery articles made of handmade paper. The question is : whether the ingredients of papad are exclusively composed of the pulses or maida or rice, etc.? When the notification mentions papad and Badi, i.e. Mangori it would appear that they did not intend to differentiate between gole or flat papad made of any ingredient. B C D

Under those circumstances it appears that the interpretation given by the High Court is not correct and that of Tribunal is correct.

The appeal is allowed and if there is any difficulty it would be open to the Govt. to make necessary declaration in exemption notification itself by way of amendment. No costs. E

R.P.

Appeal allowed.