

STATE OF KERALA

v.

JAY ENGINEERING WORKS LTD., ERNAKULAM

February 18, 1983

[P.N. BHAGWATI AND E.S. VENKATARAMIAH, JJ.]

Kerala General Tax Rules, 1963, Rule 9(b) (1) Scope of—Claim for deduction, in respect of goods returned by the purchasers, should be made in the same assessment year in which they were sold.

Allowing the appeal, the Court

HELD : Any claim for deduction in respect of goods returned by the purchasers under Rule 9(b) (i) of the Kerala General Sales Tax Rules, 1963 should be made in the assessment proceedings relating to the year in which the said goods were sold and not in the assessing proceedings relating to the assessment year in which they were returned. [362 A-B]

Deputy Commissioner of Sales Tax (Law) Board of Revenue (Taxes), Ernakulam v. Messrs Motor Industries Co., Ernakulam, [1983] 2 S.C.R. 384 followed.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2291 of 1980.

Appeal by Special Leave from the Judgment and Order dated the 21st November, 1978 of the Kerala High Court in TRC No. 31 of 1978.

P.K. Pillai for the Appellant.

E.C. Agarwala for the Respondent.

The Judgment of the Court was delivered by

VENKATARAMIAH, J. This appeal is filed against the judgment dated November 21, 1978 of the High Court of Kerala in *The Jay Engineering Works Ltd. v. State of Kerala*⁽¹⁾.

In *Deputy Commissioner of Sales Tax (Law), Board of Revenue (Taxes), Ernakulam v. M/s. Motor Industries Co., Ernakulam*⁽²⁾, we

(1) 43 S.C.C. 492.

(2) [1983] 2 S.C.R. 384.

- A** have held that any claim for deduction in respect of goods returned by the purchasers under Rule 9 (b) (i) of the Kerala General Sales Tax Rules, 1963 should be made in the assessment proceedings relating to the year in which the said goods were sold and not in the assessment proceedings relating to the assessment year in which they were actually returned. Following the above decision we set aside the
- B** judgment of the High Court in this case and direct that the assessment order for the year 1972-73 shall be accordingly modified. As a consequence of this order, the Department is directed to modify the assessment order for the assessment year 1971-72 by allowing deduction under Rule 9 (b) (i) of the Kerala General Sales Tax Rules, 1963 and to make refund of any excess tax paid during
- C** that year.

The appeal is accordingly allowed. No costs.

- D** S.R. *Appeal allowed.*