THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No. 19651 of 2007

Cakes N Bakes,
Represented by its Managing Partner,
V.K.Nichani,
No.32, Nungambakkam High Road,
Chennai – 600 034. ...Petitioner

Vs.

1.The Commercial Tax Officer,
Valluvarkottam Assessment Circle,
621, Anna Salai,
Chennai – 600 006.

2.The Appellate Assistant Commissioner (CT), III
V Floor, Kuralagam Annexe,
Chennai – 600 108.

3.The Tamil Nadu Sales Tax Appellate Tribunal,
Represented by its Secretary,
Additional Bench,
New City Civil Court Buildings,
High Court Complex,
Chennai – 104. ...Respondents

PRAYER: This Petition filed under Article 226 of the Constitution of India praying to call for the records on the file of the 3rd respondent herein in

T.A.No.534 of 2001 dated 14.09.2006 and issue a Writ of Certiorari quashing the same.

For Petitioner : Mr.K.A.Parthasarathi

For Respondents : Mr.C.Harsharaj
Additional Government Pleader

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM, J.)

The lis on hand has been instituted to assail the order dated 14.09.2006 passed in T.A.No.534 of 2001.

2. The petitioner states that they are partnership firm registered under the Indian Partnership Act with their registered Office at No.32 Nungambakkam High Road, Chennai. The petitioner is an assessee on the file of the 1st respondent. The petitioner is running a restaurant at No.32, Nungambakkam High Road, Chennai, in which they are *inter alia* involved in the activity of preparation of food and drinks. Admittedly, the food and drinks are not sold under any brand name. In the petitioner's eating house they are selling bakery products to its customers. The learned counsel for the petitioner would mainly contend that pursuant to the notification in G.O.P.No.570 dated 10th June 1987, selling of bakery products in a snack bar is exempted and therefore, the petitioner is entitled for the benefit of exemption under the said notification.

Admittedly, the petitioner has obtained license from the Corporation of Chennai to run a snack bar under the conditions as stipulated in the license dated 08.05.1995.

3. The learned counsel for the petitioner would mainly contend that a similar issue has been considered by the Tamil Nadu Taxation Special Tribunal in T.C.(R) No.2649 of 1997 dated 27th day of July, 1999. The petitioner herein is the petitioner in the said TC case. The Taxation Special Tribunal made a finding that bakery products sold by the assessee would fall under the heading "food and drinks" mentioned in the said Government Order and those items are being sold from a restaurant licensed by the Corporation of Chennai. Thus, the petitioners are eligible for grant of exemption under the Government Order, even in respect of the bakery products. Contrary to the said finding of the Tamil Nadu Taxation Special Tribunal, Tamil Nadu Sales Tax Appellate Tribunal has ruled that the petitioner is not eligible to avail the notification and thus the present Writ Petition came to be instituted.

4. The learned counsel for the 1st respondent would oppose by stating that the case of the petitioner would squarely fall under Entry 48 of III Schedule and therefore, the selling of bakery products are not covered under the exemption clause. Only tea, coffee, green tea as stipulated under Entry 48 of Schedule III alone are covered under the exemption notification and thus the appellate Tribunal is right in rejecting the claim of the petitioner.

5. This Court has considered the rival submissions made between the parties to the lis on hand.

6. The Entry 48 of part B of III Schedule reads as under:

"48. Food and drinks falling under Item 9 of Part 'C' of the First Schedule sold by -

i) any hotel other than a star hotel recognised by the Government of India;

ii) any restaurant other than those attached to such star hotels;

iii) any other eating house."

7. Sl.No.9 of Part C of I Schedule reads as under:-

Part C - Goods which are Taxable at the rate of 10%

9. (i) Coffee, that is to say, any one of the forms of coffee such as coffee-beans, coffee seeds whether or not cured or roasted or decaffeinated, coffee powder, excluding coffee drink

(ii) Instant coffee in granule or powder form

(iii) French coffee (on the turnover relating to components thereof namely coffee and chicory which have not already suffered

tax)

(iv) Chicory

(v) Tea, that is to say, any one of the forms of tea in which it is sold but not including tea drink or green tea leaves

(vi) Instant tea (other than instant tea drink)

(vii) Tea waste other than denatured. [All these goods were previously taxable at 8%]

8. Holistic reading of the above items stipulated under Sl.No.9 to 1st Schedule would indicate that the bakery products are not included and thus would not fall under the exemption notification. In fact, the bakery products are stated in I Schedule of Part B of Sl.No.11. The said Sl.No.11 of part B of I Schedule has not been exempted under the notification. Therefore, the petitioner's case would not fall under the exemption notification. Therefore this Court has no hesitation in arriving at a conclusion that the Original Authority and the appellate Tribunal has rightly interpreted the exemption notification and the scope of its applications.

9. Consequently, the order impugned is confirmed and the Writ Appeal is dismissed. No costs.

(S.M.S., J.) **(C.S.N., J.)**
01.09.2025

dsa

Internet :Yes/No
Index :Yes/No
Neutral Citation :Yes/No
Speaking order/ Non-Speaking order

To:

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S.M.SUBRAMANIAM, J.
and
C.SARAVANAN, J.

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