

GIB/KN/M.K..Agro /22.09.2017/SC-18

Supreme Court Category : Input Tax Credit

State : Karnataka

Order No.: GIB/KN/M.K..Agro /22.09.2017/SC-18

Name of Entry :

The State Of Karnataka vs M/S M.K..Agro Tech.(P) Ltd.

Date : 22-09-2017

Breif Issue :

Facts & Issue Of The Case :

The respondent is a private limited company registered under the provisions of the KVAT Act and also under the provisions of Central Sales Tax Act, 1956. The assessee carried on business of manufacturing and trading of various kinds of edible oil. It purchases oiled sunflower cake as an input (pays input sales tax on that), extracts oil out of it in the solvent extraction plant, the oil is then refined in the refinery and trading is carried on through the trading unit. Indisputably the assessee also sells de-oiled cake which is a marketable good in itself.

The condition precedent for having the benefit of input tax deduction is that the goods sold or manufactured by the assessee should be liable to tax under the Act and if no output tax is payable then the question of deducting input tax in order to calculate the net tax would not arise. Here is a case where the respondent assessee has paid input tax while purchasing the raw material, namely, sunflower oil cake. This has been used for extraction of sunflower oil. Even after extracting the sunflower oil what remains is de-oiled cake which, no doubt, is a by-product. However, it is not to be discarded as waste.

Decision of Advance Ruling Authority :

Decision :

Records and statement of accounts of the respondent assessee clearly stipulates that after solvent extraction is completed, 88% of de-oiled cake remains and only 12% remains is the oil which is further refined in the refinery. This clearly shows that major outcome (88%) of the solvent extraction plant is de-oiled cake which in itself is a marketable good having market value. Section 17 gets attracted in the instant case and the view taken by the High Court is erroneous.