**Thomas Cheriyan K. Vs. the Commissioner of Comml. Taxes**

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**SooperKanoon Citation** : sooperkanoon.com/727344

**Court** : Kerala

**Decided On :** Jun-09-2008

**Reported in** : 2008(3)KLJ531; (2009)24VST550(Ker)

**Judge** : C.N. Ramachandran Nair and; ; V.K. Mohanan, JJ.

**Acts** : Kerala General Sales Tax Act

**Appeal No.** : O.T.A No. 4 of 2003

**Appellant** : Thomas Cheriyan K.

**Respondent** : The Commissioner of Comml. Taxes

**Advocate for Def.** : Tekchand, GP

**Advocate for Pet/Ap.** : V.V. Asokan and; Sunil Shanker, Advs.

**Disposition** : Appeal allawed

**Judgement** :

**C.N. Ramachandran Nair, J.**

1. Heard learned Counsel appearing for appellant and learned Government Pleader.

2. Order under challenge is Clarification issued by the Commissioner of Commercial Taxes clarifying that the labeling equipment sold by the appellant answers the description of 'machinery' falling under Entry 84(1) of I Schedule to the KGST Act. Learned Counsel for appellant contended that the item is only an equipment to print price of a product on the label to be fixed on the cover of the product. During hearing, learned . counsel for appellant produced sample of the item marketed by appellant. We find that one side gum pasted paper roll is loaded in it and what the machine dose is printing the figures or letters on the label. It is a simple device like a rotating seal or a stapler. The items of machinery referred under Entry 84(1) are internal combustion engine, marine engine, diesel generating set, diesel engine etc. We do not think the simple equipment used for printing the price on the label can be equated to any of these items of machinery referred to under Entry 84(1) of the Act. In common parlance, nobody will treat a stapler or a rotating seal or a label printing device like this as machinery.

We, therefore, allow the appeal by quashing Annexure A order of the Commissioner an hold that the item is taxable under the residuary entry and not under Entry 84(1) of 1 schedule to the KGST