REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4003 OF 2007

HINDUSTAN LEVER LTD. …APPELLANT

Versus

STATE OF KARNATAKA …RESPONDENT

J U D G M E N T

R.F.Nariman, J.

1. The appellant is a public limited company having a tea manufacturing unit at Dharwad and various other units which also manufacture tea. The tea manufactured by the appellant is of three types, namely, packet tea, tea in tea bags, and quick brewing black tea. It is claimed that the Dharwad Unit, as opposed to the other units manufacturing tea, is a new unit and is, therefore, exempt altogether from payment of entry tax on packing material of tea under a notification dated 31.3.1993 issued under Section 11A of the Karnataka Tax on Entry of Goods Act, 1979 (hereinafter referred to as the "Karnataka

Entry Tax Act"). Insofar as the other units are concerned, it is the case of the appellant they are covered by Explanation II to a Notification dated 23.9.1998 issued under Section 3 of the said Act, and "packing material" being covered by the said Explanation would entitle them to pay entry tax at the rate of 1% and not 2%. In these appeals, we are concerned with three assessment years 1994-1995, 1995-1996 and 1996-1997.

2. The question that arises for decision in this appeal is whether "packing materials" which enter the local area for consumption therein, that is for packing tea that is manufactured by the appellant, can be said to be raw material, components, or inputs used in the manufacture of tea. In order to answer this question, it is necessary to first set out the relevant provisions of the Karnataka Entry Tax Act. They are as follows:

> "2. **Definitions.-** (A) In this Act, unless the context otherwise requires,-
>
> (4a) goods means all kinds of moveable property (other than newspapers, actionable claims, stocks and shares and securities) and includes livestock;
>
> (7) "Schedule" means a schedule appended to this Act;

(8) "tax" means tax leviable under this Act;

(8a) 'Value of the goods' shall mean the purchase value of such goods that is to say, the purchase price at which a dealer has purchased the goods inclusive of charges borne by him as cost of transportation, packing, forwarding and handling charges, commission, insurance, taxes, duties and the like, or if such goods have not been purchased by him, the prevailing market price of such goods in the local area.

(B) Words and expressions used in this Act, but not defined, shall have the meaning assigned to them in the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957.)

3. **Levy of tax.-** (1) There shall be levied and collected a tax on entry of any goods specified in the FIRST SCHEDULE into a local area for consumption, use or sale therein, at such rates not exceeding five percent of the value of the goods as may be specified retrospectively or prospectively by the State Government by notification and different dates and different rates may be specified in respect of different goods or different classes of goods or different local areas.

11A. **Power of State Government to exempt or reduce tax.-**

(1) The State Government may, if in its opinion it is necessary in public interest so to do, by notification and subject to such restrictions and conditions and for such period as may be specified in the notification, exempt or reduce either prospectively or retrospectively the tax payable under this Act,-

(i) by any specified class of persons or class of dealers or in respect of any goods or class of goods; or

(ii) on entry of all or any goods or class of goods into any specified local area.

(2) The State Government may, by notification cancel or vary any notification issued under sub-section (1).

(3) Where any restriction or condition specified under sub-section (1) is contravened or is not observed by a dealer or a declaration furnished under the said sub-section is found to be wrong, then such dealer shall be liable to pay by way of penalty an amount equal to twice the difference between the tax payable at the rates specified by or under the Act and the tax paid at the rates specified under the notification on the value of such goods in respect of which such contravention or non-observance has taken place or a wrong declaration is furnished:

Provided that before taking action under the sub-section the dealer shall be given a reasonable opportunity of being heard.

FIRST SCHEDULE

(See Section 3 (1))

66. Packing materials namely :-

(i) fibre board cases, paper boxes, folding cartons, paper bags, carrier bags and card board boxes, corrugated board boxes and the like.

(ii) tin plate containers (cans, tins and boxes) tin sheets, aluminium foil, aluminium tubes, collapsible tubes, aluminium or steel drums, barrels and crates and the like ;

(iii) plastic, poly-vinyl chloride and polyethylene films bottles, pots, jars, boxes, crates, cans, carboys, drums, bags and cushion materials and the like ;

(iv) wooden boxes, crates, casks and containers and the like;

(v) gunny bags, bardan (including batars), hessian cloth, and the like ;

(vi) glass bottles, jars and carboys and the like ;

(vii) laminated pacing materials such as bitumanised paper and hessian based paper and the like;

80. Raw materials component parts and inputs which are used in the manufacture of an intermediate or finished product."

3. Under Section 11A of the Act, a Notification dated 31.3.1993, exempting raw materials, component parts, and inputs entering a local area for use in the manufacture of an intermediate or finished product, was promulgated. It reads as under:

"Entry tax on raw materials, etc. for use in manufacture of goods by new industrial units – Exemption (Karnataka)

Notification III No.FD.11.CET 93 dated the 31st March,1993

[Public in Karnataka Gazette, Extraordinary No. 201, Part 4-C(ii) dated 31st March, 1993]

In exercise of the powers conferred by section 11-A of the Karnataka Tax on Entry of Goods Act, 1979 the Government of Karnataka being of the opinion that it is necessary in the public interest so to do,

hereby exempts with effect from the first day of April, 1993 the tax payable under the said act, on the entry of raw materials, component parts and inputs and machinery and its parts into a local area for use in the manufacture of an intermediate or finished product by the new industrial units mentioned in column (2) of the Table below located in the zones specified in column (3) and for the period mentioned in Column (4) thereof.

TABLE

Sl.No.	Type of Industry	Location of Industry	Period of exemption
1	2	3	4
1.	Tiny/Small/medium and large scale industrial units	Situated in Zone-III specified in annexure-I to Government Order No. CI/138 SPC/90, dated 27.9.1990	4 years from the date of commencement of commercial production or 4 years from the date of commencement of this notification whichever is later.
2.	Tiny/small/medium and large scale industrial units	Situated in Zone-IV specified in annexure I to Government Order No. CI/138/SPC/90, dated 27.9.1990	5 years from the date of commencement of commercial production or 5 years from the date of commencement of this notification whichever is later.
3.	Tiny/small scale/ Medium and large scale industrial units in the thrust sector as defined in annexure-II to G.O. No. CI.138/SPC/90, dated 27.9.1990	Situated in Zone-III specified in annexure I to Government Order No. CI/138/SPC/90, dated 27.9.1990	5 years from the date of commencement of commercial production OR 5 years from the date of commencement of this notification whichever is later.
4.	Tiny/small scale/ Medium and large scale industrial units in the thrust sector as defined in Annexure II to G.O. No. CI.138/SPC/90, dated 27.9.1990	Situated in Zone-IV specified in annexure-I to Government Order No. CI/138/SPC/90, dated 27.9.1990	6 years from the date of commencement of commercial production, OR 6 years from the date of commencement of this notification whichever is later.

Explanation – (1) For the purpose of this notification "a new industrial unit" shall have the same meaning assigned to it in Notification No. FD 239 CSL 90(1) dated 19th June, 1991, issued under Section 8-A of the Karnataka Sales Tax Act, 1957.

(2) The provisions of the notification shall not apply to a unit to which the provisions of Notification No. FD 239 CSL 90(1) dated 19th June, 1991 issued under Section 8-A of the Karnataka Salex Tax Act, 1957 shall not apply.

(3) The procedure specified in Notification No. FD 239 CSL 90(1), dated 19th June, 1991 issued under Section 8-A of the Karnataka Sales Tax Act, 1957 for claiming exemption under that notification shall *mutates mutandis* apply to a industrial unit claiming exemption under this notification."

4. By a notification dated 31.3.1994, various goods which entered a local area were charged at different rates of entry tax. This notification was struck down by the High Court as violating Article 301 of the Constitution, and hence, the State Government came out with notification dated 23.9.1998 to cure the defects pointed out by the High Court, and was for the period dated 1.4.1994 to 6.1.1998. The aforesaid notification reads as follows:

"Sl No.104

No. FD 112 CET 98, Bangalore, dated 23rd September, 1998

In exercise of the powers conferred by sub-section (1) of Section 3 of the Karnataka Tax on Entry of Goods Act, 1979 (Karnataka Act 27 of 1979), the Government of Karnataka, hereby specify that with effect from the First day of April, 1994 and upto 6th day of January, 1998, tax shall be levied and collected under the said Act on the entry of goods specified in column (2) of the table below into a local area from any place outside the State of consumption or use therein, at the rates specified in the corresponding entries in column ; (3), thereof:-

TABLE

Sl. No.	Commodity	Rate of tax
1	2	3
3.	Packing material namely:	
	(i) Fibre board cases, paper boxes, Folding cartons, paper bags, carrier bags and card board boxes, corrugated board boxes and the like;	2%
	(ii) Tin plate containers (cans, tins and boxes), tin sheets, aluminium foil, aluminium tubes, collapsible tubes, aluminium or steel drums, barrels and crates and the like:	2%
	(iii) Plastic, polyvinyl chloride and polyethylene firms, bottles, pots, jars, boxes, crates, cans, carboys, drums, bags and cushion materials and the like;	2%
	(iv) Wooden boxes, crates, casks and containers	2%

	and the like;	
(v)	Gunny bags, bardan (including batars) hessian cloth and the like;	2%
(vi)	Glass bottles, jars and carboys and the like;	2%
(vii)	Laminated packing materials, such as bluminised paper and hessian-based paper and the like;	2%
4.	Raw materials, component parts and inputs are used in the manufacture of an intermediate of finished product.	1%

Explanation I – The words "raw materials, component parts and any other inputs" do not include exempted goods which are specified in the Schedule, horticultural produce, cereals, pulses, oil seeds including copra and cotton seeds, timber or wood of any species, newsprint, silk cocoons, raw, thrown or twisted silk, tobacco (whether raw or cured) and blended yarn, man-made filament yarn, man-made fibre yarn, man-made fibre, woolen yarn and woolen blended yarn, washed cotton seed oil, non-refined edible oil, rice bran and oil cake and such other goods as may be notified by the State Government from time to time.

Explanation II – If any of the goods liable to tax under this Act are brought into a local area for use or consumption as raw materials, component parts and inputs in the manufacture of an intermediate or finished product, the tax payable on such goods shall be at the rate of one percent."

5. All the authorities under the Entry Tax Act i.e. the Assessing Authority, the First Appellate Authority and the Karnataka Appellate Tribunal have held that packing material

cannot be regarded as raw material, component parts or inputs used in the manufacture of finished goods and, therefore, in the context of the Entry Tax Act read with Schedule I, such packing material is neither exempt nor chargeable at the rate of 1% on a true construction of the aforesaid notifications of 1993 and 1998. The High Court in turn has dismissed the revision petitions filed under the statute by the assessee following their own judgment in **Nestle India Ltd. v. State of Karnataka**, a Division Bench judgment of the Karnataka High Court dated 22.3.2006. This is how the appellants have come before us in the present civil appeals.

6. Shri Arvind Datar and Shri Kavin Gulati, learned senior advocates, strenuously argued before us that the judgment in the **Nestle case,** which was followed in the instant case, was incorrect inasmuch as according to them "packing material" is clearly an "input", if not a component part of manufactured tea, and would, therefore, qualify for exemption and/or lesser rate of tax as the case may be. They also argued that Explanation II to the Notification of 23.9.1998 made the position clear that even though packing material may be covered under item 3 of

the said Notification, yet, as it is an input in the manufacture of the finished product tea, it would be covered by Explanation II, and therefore would be taxable at the rate of 1% and not 2%. They further argued that words and expressions that are not defined under the Entry Tax Act but which are defined in the Karnataka Sales Tax Act, 1957 would have to be borrowed for the purpose of the Entry Tax Act. In this regard, in particular, they relied upon Section 5A of the Karnataka Sales Tax Act, and in particular Explanation I to the aforesaid Section which defined "industrial inputs" as meaning either a "component part" or "raw material" or "packing materials", and argued that packing material has been recognized as an input under the Karnataka Sales Tax Act, and should be so recognized under the Entry Tax Act read with the two notifications aforesaid. They also cited a large number of judgments of this Court and of the High Court to buttress their submission that packing material would certainly come within the expression "input" and would therefore be covered by the aforesaid two notifications.

Shri Kavin Gulati also specifically pointed out the Tea Marketing Control Order, 2003 made under Section 30 of the

Tea Act, 1953 in which, “manufacturer” has been defined as a person who also produces value added products commercially known as tea, that is packet tea, tea box, etc., and therefore went on to argue that it is obvious that packing material used to market tea would necessarily be included.

7. Shri Patil, learned senior advocate appearing on behalf of the State of Karnataka, countered these submissions, and stated that the High Court was absolutely correct in interpreting the Entry Tax Act and the two notifications in the manner that it did in **Nestle** case. He argued that the context of the Entry Tax Act is most important and that decisions relatable to the Central Excise Act and to Sales Tax statutes would not therefore apply. His primary argument was that Schedule I of the Entry Tax Act itself made a clear distinction between packing materials, on the one hand, and raw materials, component parts and inputs, on the other, the Schedule making it clear that they were distinct and separate goods. He further adverted to the definition of the expression “goods” contained in the Entry Tax Act and argued that unlike in the Central Excise Act and in Sales Tax statutes, goods need not be marketable, the

definition confining goods to “movable property” without more. He also argued that adverting to Section 5A of the Karnataka Sales Tax Act would be of no help in the facts of the present case inasmuch as we are not concerned with “industrial inputs” but inputs as understood by the Entry Tax Act read with Schedule I. According to him all the judgments cited by the appellants were distinguishable in that none of them pertain to any entry tax statute but were all under the Central Excise Act or Sales Tax statutes.

8. Having heard learned counsel for the parties, it is important to go back to a few fundamentals. As has been explained in **Escorts Limited v. CCE**, (2015) 9 SCC 109, the definition of “manufacture” in the Central Excise Act is dependent upon the definition of “goods” defined by the Constitution in Article 366(12). This Court has therefore held:-

> **“**It is clear on a reading of this Entry that a duty of excise is only leviable on “goods” manufactured or produced in India. “Goods” has been defined under Article 366(12) as follows:
>
> “366.***Definitions***.—In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—
>
> ***

(12) '**goods**' includes all materials, commodities and articles;"

Each of these three expressions has been defined in *Shorter Oxford English Dictionary* as follows:

"*Materials*".—the matter of which a thing is or may be made; the constituent parts of something.

"*Commodities*".—a thing of use or value; a thing that is an object of trade; a thing one deals in or makes use of.

"*Articles*".—a particular item of business.

Although the definition of "goods" is an inclusive one, it is clear that materials, commodities and articles spoken of in the definition take colour from one another. In order to be "goods" it is clear that they should be known to the market as materials, commodities and articles that are capable of being sold.

In the basic judgment which has been referred to in every excise case for conceptual clarity, namely, *Union of India* v. *Delhi Cloth & General Mills Co. Ltd.* [(1977) 1 ELT 199 : AIR 1963 SC 791 : 1963 Supp (1) SCR 586] , this Court held that for excise duty to be chargeable under the constitutional entry read with Section 3 of the Central Excise and Salt Act, two prerequisites are necessary. First, there must be "manufacture" which is understood to mean the bringing into existence of a new substance. And secondly, the word "goods" necessarily means that such manufacture must bring into existence a new substance known to the market as such which brings in the concept of marketability in addition to manufacture. …" [paras 8-11]

9. However, on a perusal of the definition of "goods" in Section 2(A)(4a) of the Entry Tax Act, the said definition is an exhaustive one including all kinds of movable property and livestock. It is obvious from a reading of this definition that marketability does not appear to be a *sine qua non* for something to qualify as "goods" under the Entry Tax Act, unlike the Central Excise Act, and this basic fact will have to be kept in view while dealing with some of the judgments that have been cited before us. This is for the reason that anything that is tangible, without more, and enters a local area for consumption, sale or use therein is taxable, the taxable event being 'entry' and not 'manufacture' of goods, which, as has been noticed hereinabove, brings in the concept of marketability in the context of a duty of excise, which is absent in the context of entry tax. We might also add that Section 2(A)(8a) wherein the "value of the goods" is defined, also makes a distinction between "goods" as such, and "packing material", making it clear that charges borne by a dealer as cost of packing would have to be included in the "value of goods". In the context of the Entry Tax Act, the difference between 'goods' used in the

manufacture of goods and "packing material" is also brought out by Schedule I. Packing materials are separately defined in Entry 66. On the other hand, raw materials, component parts and inputs, which are used in the manufacture of an intermediate or finished product, are separately and distinctively given in Entry 80 thereof. The context of the Entry Tax Act therefore is clear. When raw materials, component parts and inputs are spoken of, obviously they refer to materials, components and things which go into the finished product, namely, tea in the present case, and cannot be extended to cover packing materials of the said tea which is separately provided for by the aforesaid Entry 66.

10. The notification dated 23.9.1998 issued under Section 3 uses identical language as that contained in Entries 66 and 80 of Schedule I to the Entry Tax Act. Equally, notification dated 31.3.1993 is an exemption notification issued under Section 11A which also uses the identical language of Entry 80 of Schedule I. This being the case, it is clear that neither notification can be read to include "packing material" as "raw

materials, component parts or inputs used in the manufacture" of tea.

11. This brings us to an argument made by learned counsel for the appellants on the correct construction of Explanation II to the notification dated 23.9.1998.

12. What has first to be seen is that packing material, and raw materials, component parts and inputs are separately provided for under the Schedule to the Act. The same is also true of the aforesaid Notification. Packing material is contained in Entry 3 of the table whereas raw materials, component parts and inputs are contained in Entry 4. The rate at which they are taxed is also different – packing materials at 2%, whereas raw materials, components parts and inputs are taxed at 1%. This being so, the reason for inclusion of Explanation II appears to be that goods which are liable to tax, being finished goods in themselves, may yet be brought into a local area for use or consumption as raw material, component parts and inputs in the manufacture of an intermediate or finished product. It is only such goods that are liable to be taxed at the rate of 1%. It

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is difficult to accept the argument on behalf of the appellants that Explanation II makes it clear that though packing materials may be liable to tax at 2%, yet if they fall in Explanation II, they would be liable to tax at the rate of 1%. This would fly in the face of the scheme of Schedule I of the statute which, as has been held earlier, makes it clear that in no case can packing materials be said to be raw materials, component parts or inputs used in the manufacture of finished goods. For this reason alone we find it difficult to construe the notification dated 23.9.1998 in the manner suggested by the appellants.

13. Even otherwise, there is no such Explanation II contained in the exemption notification dated 31.3.1993. This being the case, if we were to accept the case of the appellants, they would be liable to tax at the rate of 1% under the 1998 notification but would not be exempt under the 1993 notification, thus rendering the same packing material liable to tax at the rate of 2% in the case of the Dharwad unit and 1% in the case of all other units. This would lead to an anomalous situation which can best be avoided by not accepting the argument on behalf of the appellants.

14. Equally, the argument based on Section 5A of the Karnataka Sales Tax Act is fallacious in that it is only for the purpose of "industrial inputs" that packing materials are included, and forms a separate scheme of taxation under the Sales Tax statute. We cannot accede to the argument that *de hors* the context of the Entry Tax Act, we should accept that industrial inputs include packing materials and that therefore, by parity of reasoning, "inputs" under the Entry Tax Act should also include packing material. This argument has therefore correctly been turned down by the High Court of Karnataka in the **Nestle case**.

15. We have now to deal with the judgments cited on behalf of the appellants. In **Government of Andhra Pradesh v. Guntur Tobaccos Ltd.**, [15 STC 240], this Court had to decide as to whether the use of packing material should be regarded as execution of a works contract and not as a sale. This Court held on the facts in that case that packing material was part of the process of re-drying tobacco as it was necessary to pack it in a waterproof material to protect it from heat and humidity, so as to store tobacco for a sufficiently long period to avoid

fermentation, and to make the tobacco mature for use in cigarettes, cigars, etc. The context of the judgment is entirely different from the facts contained in the present case and would thus have no relevance. Learned counsel for the appellants tried to draw succour from this judgment stating that the idea of packing tea is also to keep out moisture. While that may be so, that single fact cannot lead to a conclusion that would drive a coach and four through the scheme of the Entry Tax Act.

16. **Brooke Bond Lipton India Ltd. v. State of Karnataka,** 109 STC 265, was cited next. This is a High Court judgment under the Karnataka Sales Tax Act, in which it was stated that packaging led to value addition for the purpose of excise and sales tax, and that it was a possible view that packaged blended tea produced in the industrial unit of the appellant is a manufactured product in which packing materials are inputs. This was in the context of exemption notifications under the Sales Tax Act. As can be seen from paragraph 26 of the aforesaid judgment, the questions involved in that case were entirely different. Also, the test of what is "manufacture" was borrowed from the Central Excise Act as can be seen from

paragraph 48 of the judgment. The High Court points to a new dimension to the word “manufacture” in the context of excise which would therefore include within it packing material as well in order that the goods be made marketable. This, as we have seen above, cannot be done in the context of the Entry Tax Act.

17. In **Tata Engineering & Locomotive Co. Ltd. (TELCO) v. State of Bihar**, (1994) 6 SCC 479, this Court had to deal with a notification issued by the State of Bihar in the context of sales tax. The expression “raw material” and “input” was used in the notification. This Court held, following **J.K. Cotton Spinning & Weaving Mills Co. Ltd. v. S.T.O.,** (1965) 1 SCR 900, that the expression “in the manufacture of goods” would normally encompass the entire process carried on by the dealer of converting raw materials into finished products. The precise question before this Court was whether products finished in themselves, such as tyres, tubes, batteries, etc., when purchased by the appellant for use in the manufacture of vehicles, could be said to be inputs. This Court held that as a vehicle cannot be operative without tyres, tubes, and batteries, obviously they were inputs in the sense of the dictionary

meaning of what is “put in”. Both the fact situation and the ratio of this judgment are far removed from the facts in the present case inasmuch as it is nobody’s case that without the packing material manufactured tea cannot be said to exist as a finished product, it being “moveable property” and therefore “goods” under the Karnataka Entry Tax Act. This judgment is also therefore of no avail to the appellant.

18. **M/s. Star Paper Mills Ltd. v. CCE, Meerut**, (1989) 4 SCC 724, is an excise case in which an exemption Notification exempted goods used as component parts in manufacture of any goods on which excise duty was leviable. This judgment defines the word “component” to mean a constituent part. In this context, it was held that paper core is a component part of paper delivered to the customer in rolls, but not in sheets as it was not necessary for manufacture of paper sheets. This case would have no application to the facts of the present case. It is obvious that packing material used to pack a product complete in itself, cannot possibly be included in the word “component” as it is not a constituent part of manufactured tea.

19. Three other judgments under the Central Excise Act were cited. The first of them, **CCE v. M/s. Eastend Paper Industries Ltd.**, (1989) 4 SCC 244, was concerned with the marketability aspect of central excise which, as has been held by us above, would not apply in the context of the Entry Tax Act. In that judgment, paper wrapping was held to be essential to make the concerned goods marketable. The second of these judgments **CCE v. Ballarpur Industries Limited**, (1989) 4 SCC 566, again concerned a completely different fact situation. The question in that case was whether an admitted input, Sodium Sulphate, in the manufacture of paper, would not be construed to be a raw material only by reason that in the course of chemical reactions Sodium Sulphate is consumed and burnt up. This Court held that consumption and burning up would make no difference, as an 'input' need not always manifest itself in the final product. And in **H.M.M. Ltd. V. CCE**, (1994) 6 SCC 594, it was held that a screw cap on a bottle containing Horlicks was a component part of Horlicks, it being an essential ingredient to complete the process of manufacture to make Horlicks marketable. This judgment again will not apply for the same

reason indicated above, namely, that marketability is not relevant for the purpose of the Entry Tax Act.

20. **M/s. J.K. Cotton Spinning & Weaving Mills Co. Ltd. v. Sales Tax Officer, Kanpur**, (1965) 1 SCR 900, is a judgment in which Section 8 of the Central Sales Tax Act was pressed into aid on behalf of the appellant. In this case, the question was whether drawing materials, photographic materials etc. could be comprehended within the expression "in the manufacture of goods for sale" within the meaning of section 8(3)(b) of the Central Sales Tax Act, 1956. In order to determine whether such materials would qualify as such, this Court held that where any particular process is so integrally connected with the ultimate production of goods that, but for that process, manufacture or process of goods would be commercially inexpedient, goods required in that process would fall within the expression "in the manufacture of goods". What has been said about the excise cases squarely applies here. The expression used in Section 8 of the Central Sales Tax Act is not "in the

manufacture of goods", but "in the manufacture of goods for sale", bringing in the element of marketability.

21. It only remains to deal with the argument made on behalf of the appellant based on the Tea Marketing Control Order. Needless to add, a manufacturer for the purpose of the said Order is specifically a person who produces value added products commercially known as tea. The context of the said definition is for the purpose of registering manufacturers or producers and buyers of tea, having relevance therefore to the sale aspect of tea. As has already been held by us, the context of entry tax being different, we are afraid this argument also does not avail the appellant.

22. We are, therefore, of the view that the High Court was correct in following its own earlier Division Bench judgment in the **Nestle case**. This appeal is, accordingly, dismissed.

.....J.
(A.K. SIKRI)

.....J.

(R.F. NARIMAN)

New Delhi;
September 2, 2016

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