



MAJESTY LEGAL

Advocates & Solicitors

COOKED FOOD EXEMPTED FROM PAYMENT OF VAT IN EXCESS OF 5%. -

RHC

(M/S DEVANI INTERNATIONAL LTD vs. THE ADDITIONAL COMM¹.)

The Rajasthan high Court Jaipur Bench has held that the sale of sandwich and pizza would come under the ambit of “cooked food” as provided by notification dated 09.03.2015² which is eligible for the exemption of payment of tax under RVAT³.

AS HELD BY HON’BLE COURT:

- In the abovementioned case, the petitioner submitted that the pizza and sandwich are cooked food. However, the learned Tax Board has erred in law and in fact and mistakenly held that Sandwich and Pizza are baked branded products without providing any substantive proof or rationale.
- The Hon’ble High Court held that the burden to prove that a specific product falls within a particular tariff is always on the revenue, more so when the revenue is trying to classify products in the residual entry. Further, Therefore, pizza and sandwiches are held to be cooked foods and consequential relief be awarded to the petitioner within a period of 90 days.

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¹ S.B. Sales Tax Revision/Reference No. 58/2013 decided on dated 05-05-23

² Entry no. 16(v) by Notification No. S.O. 263 dated 09.03.2015 issued by Finance Department (Tax Division).

³ Schedule V of Rajasthan Value Added Tax Act, 2003. See also, Notification No. F12(59)FD/Tax/2014-14 dated 14.07.2014.

⁴ Majesty legal is a LAW FIRM established in 2013 by Ms. Mahi Yadav. Objective of this legal update is to provide insights on law, statutes and is personal in nature, not to be deemed as legal advice.