

STATE OF KERALA & ORS.

A

v.

PRABHAVATHY THANKAMMA & ORS.

(Civil Appeal No.460 of 2009)

JANUARY 23, 2009

B

**[DR. ARIJIT PASAYAT AND ASOK KUMAR
GANGULY, JJ.]**

SALES TAX LAWS:

C

*"Goods" – Purchaser's right on purchasing a lottery ticket
– Held: Is an actionable claim and therefore would be
excluded from the definition of "goods" – Actionable claim.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No.460
of 2009.

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From the Judgment and Order dated 20.7.2007 of the High
Court of Kerala at Ernakulam in W.A. No. 1786 of 2007.

R. Satish for the Appellants.

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The following Order of the Court was delivered

O R D E R

DR. ARIJIT PASAYAT, J. 1. Heard learned counsel for the
petitioner.

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2. Delay condoned.

3. Leave granted.

4. In view of the decision of the Constitution Bench of this
Court in *Sunrise Associates vs. Govt. of NCT of Delhi and Ors*
reported in 2006 (5) SCC 603, we find no merit in this appeal
which is accordingly dismissed. It need to be stated that this

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A Court in the said case *inter alia* held as follows:

"We have noted earlier that all the statutory definitions of the word 'goods' in the State Sales Tax Laws have uniformly excluded, *inter alia*, actionable claims from the definition for the purpose of the Act. Were actionable claims etc., not otherwise includible in the definition of 'goods' there was no need for excluding them. In other words, actionable claims are 'goods' but not for the purpose of the Sales Tax Acts and but for this statutory exclusion, an actionable claim would be 'goods' or the subject matter of ownership. Consequently, an actionable claim is movable property and 'goods' in the wider sense of the term but a sale of an actionable claim would not be subject to the sales tax law.

D xxxxxx xxxxxx xxxxx

A lottery ticket has no value in itself. It is a mere piece of paper. Its value lies in the fact that it represents a chance or a right to a conditional benefit of winning a prize of a greater value than the consideration paid for the transfer of that chance. It is nothing more than a token or evidence of this right. The Court in *H. Anraj*, as we have seen, held that a lottery ticket is a slip of paper of memoranda evidencing the transfer of certain rights. We agree.

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5. The question is, what is this right which the ticket represents? There can be no doubt that on purchasing a lottery ticket, the purchaser would have a claim to a conditional interest in the prize money which is not in the purchaser's possession. The right would fall squarely within the definition of an actionable claim and would therefore be excluded from the definition of 'goods' under the Sale of Goods Act and the Sales tax statutes."

H G.N.

Appeal dismissed.