

(1998) 11 SC CK 0011

In the Supreme Court Of India

Case No : C.A. No's. 12518-12520 of 1996 (with C.A. No's. 12523 to 12529/96, 12530/96, 12522, 12521/96, C.A. No's. 13110, 14159, 14160, 14161, 14156-14158/96 and C.A. No. 637/97

Ashirwad Ispat Udyog and Others

APPELLANT

Vs

State Level Committee and Others

RESPONDENT

Date of Decision : 03-11-1998

Acts Referred:

Madhya Pradesh General Sales Tax Act, 1958 — Section 12, 2

Citation : (1998) 8 AD 396 : AIR 1999 SC 111 : (1998) AIRSCW 3463 : (1998) 62 ECC 606 : (1998) 7 JT 588 : (1999) MPLJ 1 : (1999) 1 MPLJ 1 : (1998) 6 SCALE 104 : (1998) 8 SCC 85 : (1998) 2 SCR 542 Supp : (1999) 112 STC 207 : (1998) 8 Supreme 338

Hon'ble Judges : S. Rajendra Babu, J;S. P. Bharucha, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Bharucha, J.—The principal judgment and order under appeal and the orders following it, also under appeal, were passed by a Division Bench of the High Court of Madhya Pradesh on writ petitions filed by the appellants.

2. Very briefly stated, the facts are these : The appellants purchase iron and steel scrap from the Bhilai Steel Plant and other parties. The scrap, in the form of defective angles, channels, tubes and coils is of very considerable size. The appellants cut down the scrap so that it may be utilised by rolling mills and forging parts manufacturers, gear and pinion manufactures and dye block manufactures. The question is whether such cutting down, with the help of shearing machines and glass cutting, of the scrap of widths of 2' to 5' and thickness upto 2.5" into strips of the size of 2" to 4" is a process of "manufacture" within the special definition of that word in Section 2(j) of the Madhya Pradesh General Sales Tax Act. The definition reads thus :

"2(J) "manufacture" includes any process or manner of producing, collecting,

extracting, preparing or making any goods and in respect of trees which have been severed from the land or which have been felled, also the process of lopping the branches, cutting the trunks or converting them into logs, poles or baulies or any other articles of wood, but does not include such manufacture or manufacturing process as may be notified.

3. The State Government issued a notification on 16.10.1986 u/s 12 of the said Act granting exemption to dealers, who were registered under the said Act and had established eligible industrial units in any district in the State and held a provisional or permanent eligibility certificate issued by an officer authorised for the purpose, from payment of tax to the extent stated therein. Dealers registered with the Industries Department of the Government of Madhya Pradesh who had set up small scale industrial units and who had made a capital investment in fixed assets above Rs. 10 lakhs were exempted from the whole of the tax if they had set up industries within the areas categorised therein for the periods set out thereagainst. The exemption was available subject to the condition, inter alia, that it "shall be available only in respect of the sales of the goods which the dealer is licensed to manufacture and which are manufactured by him as also waste and by products obtained in the course of manufacture."

4. Under the terms of the said notification the appellants obtained eligibility certificates from the District Level Committees established for the purpose, after due enquiry and verification. The State Level Committees, after the lapse of some time, issued to the appellants notices requiring them to show cause why their eligibility certificates insofar as they related to iron and steel scrap processing should not be cancelled on the ground that no manufacture of new items resulted. The State Level Committees, ultimately did cancel the eligibility certificates on the said ground. In the case of C.A. Nos. 14156-14158/96, Laxmi Ispat Industries and Ors. v. State of M.P., and of some others the eligibility certificates were refused. The appellants challenged the orders of cancellation/refusal by way of writ petitions.

5. The High Court, in the judgment under appeal, dismissing the writ petitions, placed great stress on decisions under the Excise Act and other statutes relating to the meaning of the word "manufacture" as used therein and concluded that the activity that was carried on by the appellants was not "manufacture" for "simply because iron scraps are purchased and cut in a manner required by various customer, that will not change the basic character of iron scrap and it is only the processing by twisting, fabricating or giving it a particular shape required by customers. Such type of processing will not change the identity of the material and that will not amount to a manufacturing or processing of the same. As the definition of 'manufacture' given in the Sales Tax Act includes processing, therefore, such transformation of basic iron material into various shapes will not be treated to be manufacture so as to entitle for exemption under the exemption notification".

6. Learned counsel for the applicants submitted that it was clear from the said

Act that the definition of 'manufacture' therein was not restricted to the production of new articles. The said notification also indicated this when it stated that the exemption thereunder would not be available to "pressing of iron/steel scrap into blocks". Reliance was placed upon a notification issued on 1st October, 1978 under the said Act wherein it was stated that the "slaughtering of animate and obtaining meat, bides and skins" would not be treated as a process of manufacture for the purpose of the definition of "manufacture" in Section 2(j). Reference was made to an order passed on 09.02.1993 by the Board of Revenue, Madhya Pradesh, where the very same issue was considered in relation to some of the appellants in the context of suo moht orders passed by the Deputy Commissioner of Sales Tax holding mat the activity of me appellants was not covered by the said definition of "manufacture" and, accordingly, the raw materials specified in their registration certificates were ordered to be deleted. The Board of Revenue, analysing the said definition of "manufacture", observed, "The process of manner of collecting or preparing do not mean to include collection or preparation of new goods, but means to prepare the available goods to make it saleable. With this object the legislature have amended the definition of manufacture so as to widen the tax network. When the legislature creates such definition with this object this Court do not derive powers to restrict the definition of manufacture for grant of benefits to new industrial units." In view of its discussion, the Board of Revenue held that, inspite of the fact that the raw materials more or less retained their identity and no new product came into existence, the process and manner of the appellants' activity would amount to a process of "manufacture" within the meaning of that word in the said Act.

7. Learned counsel for the respondents relied upon decisions pertaining to the meaning of the word "manufacture", particularly under the Excise Act, and contended that since, admittedly, no new product emerged from the process employed by the appellants, there was no manufacture and, therefore, the High Court was right in the view that it took.

8. Decisions construing the meaning of the word 'manufacture' as used in other statutes do not apply unless the definition of that word in the particular statute under consideration is similar to that construed in the decisions. The plain construction of the special definition of the word in a particular Act must prevail. In the special definition given in Section 2(j) of the said Act 'manufacture' has been defined as including a process or manner of producing, collecting, extracting preparing or making any goods. There can be no doubt whatsoever that "collecting" goods does not result in the production of a new article. There is, therefore, inherent evidence in the definition itself mat the narrow meaning of the word "manufacture" was not intended to be applied in the said Act. Again, the definition speaks of "the process of lopping the branches (of trees), cutting the trunks". The lopping of branches and the cutting of trunks of trees also, self evidently, does not produce a new article. The clear words of the definition, therefore, must be given due weight and cannot be overlooked merely because in other contexts the word "manufacture" has been judicially held to refer to the

process of manufacture of new articles.

9. The appellants treat iron and steel scrap of considerable bulk by cutting it down by mechanical processes into pieces that may be conveniently utilised in rolling mills and foundries. Such treatment making saleable goods, would, in our opinion, fall within the wide definition of "manufacture" u/s 2(j) of the said Act.

10. In the result, the appeals are allowed. The judgment and orders under appeal are set aside. Relief shall now be granted to the appellants by the respondent authorities in consonance with this judgment and order.

11. No order as to costs.