
(1967) 08 AHC CK 0016
In the Allahabad High Court
Case No : Special Appeal No. 94 of 1967

Avadh Sugar Mills Ltd.

APPELLANT

Vs

Sales Tax Officer and Another

RESPONDENT

Date of Decision : 07-08-1967

Acts Referred:

Central Sales Tax Act, 1956 — Section 14

Citation : (1968) 21 STC 295

Hon'ble Judges : S.N. Dwivedi, J;Gangeshwar Prasad, J

Bench : Division Bench

Advocate : Ashoke Gupta, for the Appellant; The Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

S.N. Dwivedi, J.—The appellant has been taxed on its purchases of groundnuts. A notification issued by the State Government under the Sales Tax Act imposes purchase tax on "oil-seeds". The neat point for consideration is : Are groundnuts "oil-seeds" ?

2. Counsel for the appellant asked us to answer the question in the negative. In support of his argument he has relied on the dictionary meaning of "oil-seed" and "groundnut". According to the dictionaries an oil-seed is a seed yielding oil, and groundnut is a small farinaceous edible tuber of the wild beans. So it is said that while an oil-seed is a seed, a groundnut is a species of beans. Counsel has also referred us to certain decisions in support of his argument. In *The State of Andhra Pradesh v. Kajjam Ramachandraiah* [1961] 12 S.T.C. 795 the Andhra Pradesh High Court has held that coriander, voma and sompu are not oil-seeds. We are not concerned with these things in this case, but certain observations are noteworthy. The Court said:

The important question, to our mind, is not whether oil can be extracted from these seeds, but whether they are known in this country in common parlance to

be oil-seeds within the contemplation of the Legislature.

3. The Court further said :

It is not disputed that the three commodities referred to are used as spices and have not been known in the country as oil-seeds. Further, there is no evidence to show that any oil is extracted in this country or that the oil extracted from these is used commercially or industrially or can be bought in the market. In these circumstances, we are clearly of the view that the Legislature had never contemplated nor intended to include such commodities within the definition of oil-seeds.

4. In Commissioner of Sales Tax, Madhya Pradesh v. Bakhat Rai [1966] 18 S.T.C. 285 the Madhya Pradesh High Court held that groundnut is not an oil-seed.

5. The Court said :

...a groundnut is a bean. Oil extracted from it is edible. But groundnut is not like the seeds of sesame plant which are used principally for the purpose of extraction of oil.

6. This decision is directly on the point. It will be worthwhile to bear in mind the remarks of the Court as regards the principles of interpretation. The Court said :

Now, the term "oil-seeds" has not been defined in the Act. But it is a term of everyday use, and so it must be construed in its popular meaning, that is to say, in "that sense which people conversant with the subject-matter with which the statute is dealing would attribute to it." It must be construed as understood in common language.

7. The Court went on to say :

In its popular sense, the word "oil-seeds" means various kinds of grain which are principally used for extraction of oil.

8. It was further said :

The test is not whether oil can be extracted from a fruit or seed, but it is whether in common parlance the article is known as "oil-seed" used principally for the extraction of oil. Judged by this test, it is difficult to hold that coconuts, groundnuts and jira fall within the meaning of the term "oil-seeds"...

9. In The Central India The Central India Spinning and Weaving and Manufacturing Company, Limited, The Empress Mills, Nagpur Vs. The Municipal Committee, Wardha, it was held that betel leaves are not "vegetables". It was said there that where the words of a statute are susceptible of two interpretations, then the interpretation which favours the citizen should be preferred to the interpretation which imposes a burden on him.

10. Counsel has also shown to us an uncertified copy of a judgment of the Punjab High Court in Sri Hans Raj Choudhri v. Sri J. S. Rajyana (Civil Writ No.

2371 of 1964) decided on February 28, 1967 [Since reported at [1967] 19 S.T.C. 489]. Shamsheer Bahadur, J., has held that groundnut is not an oil-seed. The learned Judge followed the decision of the Madhya Pradesh High Court and said :

Neither counsel has been able to refer me to a decision of the Supreme Court on this point. The reasoning of the Madhya Pradesh High Court does not appear to be unreasonable and prima facie, it appears to me that groundnuts cannot be treated as oil-seeds to justify the imposition of the purchase tax.

11. We shall now refer to some other decisions which shed considerable light on the issue before us. In *Kasturi Seshagiri Pai & Co. v. The Deputy Commissioner of South Kanam* [1961] 12 S.T.C. 629 the Mysore High Court held that coconut and copra are oil-seeds within the meaning of that expression in Section 14 of the Central Sales Tax Act. The Court said :

The dictionary meaning of the word "seed" is that it is a flowering plant's unit of reproduction or germ capable of developing into another such plant.

It is common knowledge and that fact is also admitted by the learned Government Pleader that the unit of reproduction of the coconut plant, which is admittedly a flowering plant, is the coconut with its shell and husk and that it is such coconut when planted that becomes capable of developing into another coconut plant. That being so, it is clear that a coconut is a seed and since oil can be extracted from a coconut, it is an oil-seed within the meaning of that expression occurring in Section 14(vi) of the Central Sales Tax Act.

12. In *Sales Tax Officer, Kozhikode v. K. V. Moosa Koya* [1966] 18 S.T.C. 464 the Kerala High Court held that copra is an oil-seed within the meaning of that expression u/s 14 of the Central Sales Tax Act. The Court followed the decision of the Mysore High Court.

13. In *The Commissioner of Sales Tax, Madhya Pradesh v. Jaswant Singh Charan Singh* (Civil Appeal No. 2011 of 1966 decided on February 23, 1967)[Since reported at [1967] 19 S.T.C. 469] the Supreme Court held that charcoal is "coal" within the meaning of that expression in the Madhya Pradesh General Sales Tax Act. It was argued on behalf of the State of Madhya Pradesh that while coal is technically understood as a mineral product, charcoal is manufactured by human agency from products like wood and other things. Repelling this argument, Shelat, J., observed :

But it is now well-settled that while interpreting items in statutes like the Sale Tax Acts, resort should be had not to the scientific or the technical meaning of such terms but to their popular meaning or the meaning attached to them by those dealing in them, that is to say, to their commercial sense.

14. After noticing several decisions, Shelat, J., observed :

The result emerging from these decisions is that while construing the word "coal" in entry 1 of Part III of Schedule II, the test that would be applied is what would

be the meaning which persons dealing with coal and consumers purchasing it as fuel would give to that word. A sales tax statute, being one levying a tax on goods, must, in the absence of a technical term or a term of science or art, be presumed to have used an ordinary term as coal according to the meaning ascribed to it in common parlance. Viewed from that angle both a merchant dealing in coal and a consumer wanting to purchase it would regard coal not in its geological sense but in the sense as ordinarily understood and would include "charcoal" in the term "coal". It is only when the question of the kind or variety of coal would arise that a distinction would be made between coal and charcoal ; otherwise, both of them would in ordinary parlance as also in their commercial sense be spoken as coal.

15. In *His Majesty the King v. Planters Nut and Chocolate Company Limited* 1951 C.L.R. 122, Cameron, J., said:

The object of the Excise Tax Act is to raise revenue, and for this purpose, to class substances according to the general usage and known denominations of trade. In my view, therefore, it is not the botanist's conception as to what constitutes a "fruit" or "vegetable" which must govern the interpretation to be placed on the words, but rather what would ordinarily in matters of commerce in Canada be included therein.

Botanically, oranges and lemons are berries, but otherwise no one would consider them as such.

16. We think that two principles emerge from a consideration of these decisions. They are: (1) Ordinarily, the dictionary meaning of a word is not helpful in determining its meaning in a taxing provision, such as the Sales Tax Act; (2) a word used in a taxing provision, such as the Sales Tax Act, should be assigned the meaning which it has received in the commercial circles. There is good practical sense behind these principles. Words are signals invented by a society to facilitate the communication of ideas and things between the signaller at one end and the receiver at the other end. The gradual acquisition of a conventional meaning is necessarily inherent in the social (or group) purpose of their invention. The interpreter should therefore give due emphasis to the social setting of a word. The real meaning often is wrapped up in the sociology of a word.

17. It is now to be ascertained whether men of business in this country, and, in particular, in our State, regard groundnut as an oil-seed. For this purpose we have read commercial intelligence published in certain newspapers of various dates. The Times of India and the Economic Times, both published from Bombay, the Northern India Patrika (Sunday edition) published from Allahabad and the Jagran, a Hindi daily published from Kanpur publish commercial news and market rates of foodgrains and oilseeds etc. In all these papers groundnut has been invariably included in the heading of oil-seeds. It would accordingly appear that men of business in our country regard groundnut as an oil-seed. Oil is extracted

from groundnut on a commercial scale in our country. Groundnut oil is edible oil. If this oil is produced from seed, then groundnut will surely be an oil-seed. According to the definition of the word "seed" noticed in the decision of the Mysore High Court, groundnut will be an oil-seed.

18. The English version of the notification issued by the State Government uses the word "oil-seed". The original of the notification, which is in Hindi, uses the word "tilhan". The Shabdsagar, a Hindi dictionary published by the Kashi Nagari Pracharni Sabha, Varanasi gives the following definition of the word "tilhan"-

Fasal ke roop men boye jane wale paudhe linke bijon se tel nikalta hai.

18. The word "tilhan" thus means plants which are sown as a crop and from the seeds of which oil is extracted. Now, groundnut is sown as a crop by cultivators in our State, and it is admitted that oil is extracted from the seeds of groundnut. According to the meaning of the word "tilhan", groundnut will be an oil-seed.

19. In view of the foregoing discussion, we are of opinion that groundnut is an oil-seed and that accordingly the appellant has been rightly taxed.

20. It may be noticed in passing that the appellant's writ petition was dismissed summarily by the learned Single Judge on the ground that the appellant should avail of the statutory remedy of appeal from the order of the Sales Tax Officer. It seems to us that the appellant should have gone to the appellate authority, but having held on merits against the appellant, we would hesitate to dismiss the appeal for that technical reason.

21. The appeal is dismissed with costs, which we assess at Rs. 200.