(1987) 10 MP CK 0043

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 2536 of 1984

Chordia Kavelu Udyog APPELLANT

Vs

State of M.P. and Others RESPONDENT

Date of Decision : 29-10-1987

Acts Referred:
Madhya Pradesh General Sales Tax Act, 1958 — Section 12

Citation : (1988) 69 STC 49

Hon'ble Judges : N.D. Ojha, C.J;K.K. Adhikari, J

Bench : Division Bench

Advocate : V.S. Dabir, for the Appellant; S.L. Saxena, Additional Advocate-General, for the Respondent

Final Decision : Dismissed

Judgement

N.D. Ojha, C.J.—The petitioner is a registered dealer under the M. P. General Sales Tax Act, 1958 (hereinafter referred to as "the Act") as also under the Central Sales Tax Act, 1956. For the period between 1982-84, a question arose as to whether rice bran is exempt from sales tax under notification dated 1st April, 1982 a copy whereof has been attached as annexure G-1 to the writ petition. This notification was in force between 1st April, 1982 and 31st March, 1985 and thus it would be relevant for considering the aforesaid question. The class of goods shown in column 2 of the Schedule to the said notification which were exempted from sales tax under this notification is shown as "husk of all grains, cereals, pulses and rice".

2. The case of the petitioner was that rice bran was also included within the term "husk". This contention did not find favour with the Regional Assistant Commissioner of Sales Tax. Aggrieved, the petitioner has filed this writ petition with a prayer to quash the impugned order holding that rice bran was not exempt from sales tax.

3. In support of the contention that rice bran was also husk within the meaning

of the notification aforesaid, reliance was placed by learned counsel for the petitioner on the decision of a Division Bench of this Court in Shri Kishan Satyanarain v. State of M.P. 1983 MPLJ 537. In that case, sales of paddy husk had also been taxed. It was held that sales of paddy husk called "konda" was completely exempt from tax by notification dated 7th April, 1967 issued u/s 12 of the Act. In our opinion, that decision is distinguishable inasmuch as it was not a case of rice bran.

4. "Husk" according to dictionary means, inter alia, "bhusi". The question as to whether rice bran could be called "bhusi" or husk, came up for consideration before a Division Bench of the Allahabad High Court in Commissioner of Sales Tax Vs. Naveen Traders, . It was held that "bhusa" or "bhusi" as are understood in common parlance, are commodities obtained from stalk, leaves and husk of grains. Rice, with its outer husk, is known as paddy. After the husk is removed, the product is known as "rice". Rice does not have any inner husk. Rice bran is powdered rice and is obtained during the polishing process of the grain itself and is not a product obtained from stalk, leaves or the husk of paddy or rice. The same view was taken by another Division Bench of the said Court in Commissioner of Sales Tax v. Jamuna Prasad [1975] 36 STC 442 MP. It was held that bran cannot be included in the category of "bhusi". Again the same view was reiterated in Commissioner of Sales Tax Vs. Dhannamal Ram Gopal, . We agree with this view.

5. Reliance was placed by the learned counsel for the petitioner on an extract from Shri A. C. Datta''s book "A Class Book of Botany" attached as annexure D to the writ petition which indicates that on removing the husk,, a brownish membraneous layer is seen adherent to the grain and that this layer is made up of the seed coat and the wall of the fruit fused together. The said extract further indicates that rice grain and the husk are together known as the paddy grain.

6. It wood thus be seen that the seed coat has not been treated as an ingredient separate from rice, otherwise it would have stated that the rice grain, its seed coat and the husk are together known as the paddy grain. The seed coat, even according to the learned author of the book aforesaid thus constitutes a part of rice.

7. There is another aspect of the matter which, in our opinion, throws some light on the point in issue. Annexure G to the writ petition is a copy of an earlier notification dated 7th April, 1967. This too was a notification containing exemption granted u/s 12 of the Act. In the column of description of goods in the Schedule, we find the following entries :

1. Husk of all grains, cereals, pulses and rice.

2. Bran.

It thus appears that bran was not treated to be husk, otherwise there would have been no necessity of mentioning "bran" in a separate category. In the notification in question, however, even though exemption was granted with regard to husk of all grains, cereals, pulses and rice which found place at S. No. 1 of the notification dated 7th April, 1967, the exemption with regard to bran which was mentioned at S. No. 2 of that notification, was withdrawn. This, in our opinion, indicates that the notification dated 1st April, 1982 on the basis of which exemption has been claimed by the petitioner, did not intend to grant exemption with regard to rice bran.

8. In this view of the matter, we are of the opinion that the impugned orders do not suffer from any manifest error of law or error of jurisdiction which may justify quashing of the said orders.

9. In the result, this writ petition fails and is dismissed. In the circumstances of the case, there shall be no order as to costs. The outstanding security amount, if deposited, be refunded to the petitioner.