(1984) 08 KAR CK 0042

In the Karnataka High Court

Case No : Income Tax R.C. No. 6 of 1980

Commissioner of Income Tax APPELLANT

Vs

Datacons (P.) Ltd. RESPONDENT

Date of Decision : 20-08-1984

Acts Referred:

Finance Act, 1977 — Section 2 (7) (c)
Income Tax Act, 1961 — Section 256 (1)

Citation : (1985) 47 CTR 162 : (1985) ILR (Kar) 1109 : (1985) 155 ITR 66

Hon'ble Judges : S.A. Hakeem, J;Mohammad Sharif, J

Bench : Division Bench

Advocate : K. Srinivasan, for the Appellant; K.R. Prasad, for the Respondent

Judgement

Jagannatha Shetty, J.—This is a reference under s. 256(1) of the I.T. Act, 1961, and the question of law referred is :

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is correct in law in treating the assessee either as a manufacturer of goods or as engaged in the processing of goods within the meaning of section 2(7)(c) of the Finance (No. 2) Act, 1977 ?"

2. The assessee is a company. It claimed that it was an industrial company as defined under s. 2(7)(c) of the Finance (No. 2) Act, 1977. If it was an industrial company, it would be entitled to be taxed at a concessional rate. The ITO rejected that claim and assessed the income by applying normal rate of taxation, but in appeal before the AAC, the assessee succeeded.

3. The Department preferred an appeal before the Tribunal. The Tribunal after hearing the arguments, made a local inspection of the assessee''s premises to know what the assessee was really doing. The members of the Tribunal personally observed the operation of the computers installed by the assessee. A note was also prepared by the learned counsel for the assessee and given to the members of the Tribunal. That note gives the full description of the activities of

the assessee with the help of the computers. The members of the Tribunal, after personal observation and after considering the note given by the assessee''s representative, observed :

"It may be stated that the data which the assessee receives in the form of cash vouchers, invoices, goods received notes, etc., is comparable to the manuscript in publishing of a book. The publisher does not manufacture or process the manuscript, but he manufactures books, processes the paper and ink through the printing press. It is immaterial that in this case much of the processing by the assessee involves not by the printing press but by the punching machine. It is a different form of printing which can be read only by the machine, but in respect of collation of data, it is much faster than the printing press. The end product which comes out and which is sent to the customers are the various reports like receipt and payment account, trial balance, stock account, sales analysis, etc., and they are in printed form which the customer can read and understand. In our opinion, all these activities of the assesses-company definitely amount to processing of goods, i.e., raw-material which is in the form of paper or card and which goes through different machines and the data is punched on the card and stored in the machine and different printed statements come out which can be used by the customers. Looking to the activities of the assessee, we are in no doubt whatsoever that they amount to processing of goods."

4. The Tribunal has also opined that the activities of the assessee may amount to manufacture of goods, but rested its conclusion on the ground that the assessee is engaged in the processing of goods and is, therefore, an industrial company.

5. Industrial company was defined during the relevant assessment year under s. 2(7)(c) of the Finance (No.) 2) Act, 1977, to mean :

"''industrial company'' means a company which is mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining."

6. The word "processing", although not defined under s. 2(7)(c) of the Finance (No. 2) Act, 1977, has to be understood in its plain natural meaning. The scope of the word has been explained by the Supreme Court in Chowgule & Co. Pvt. Ltd. v. Union of India [1981] 47 STC 124, wherein it was observed :

"This word has not been defined in the Act and it must therefore be interpreted according to its plain natural meaning. Webster''s Dictionary gives the following meaning of the word ''process'' : to subject to some special process or treatment, to subject (especially raw material) to a process of manufacture, development or preparation for the market, etc., to convert into marketable form as livestock by slaughtering, grain by milling, cotton by spinning, milk by pasteurising, fruits and vegetables by sorting and repacking.'' Where therefore any commodity is subjected to a process or treatment with a view to its ''development or preparation for the market'', as, for example, by sorting and repacking fruits and vegetables, it would amount to processing of the commodity within the meaning of section 8(3)(b) and rule 13. The nature and extent of processing may vary from case to case; in one case, the processing may be slight and in another it may be extensive; but with each process it suffered, the commodity would experience a change. Wherever a commodity undergoes a change as a result of some operation performed on it or in regard to it, such operation would amount to processing of the commodity. The nature and extent of the change is not material."

7. In the light of these principles, we must now examine the activities of the assessee. The note prepared by the assessee''s representative and given to the members of the Tribunal when they visited the premises and examined the operation of the machine, reads as follows :

"The activity of the company is processing the data furnished by using IBM Unit Record Machine Computers.

The data is usually in the form of cash vouchers, invoices, goods received notes, incidents, etc.

In the system adopted by the company, the information is fed in all its details into punching machines which record the data on specially structured blank cards which are the property of the company. The cards have got a standard length, a standard thickness and a standard electrical resistance.

After the above process, the cards are fed through another machine called the verifier which verifies as to the accuracy of the recording of the data in the previous process. The cards are used on the principle that composite information is punched only once and nothing is entered twice.

These cards are next fed into the sorter and the collator which ensures the sequence of the cards. These cards are next fed into the unit record set up computer which processes the basic data and brings out various reports like receipts and payments account, trial balance, stock accounts, sales analysis, receivable statements, etc. The processing during the unit record set up is basically done by using control panels and panel wires with the help of which the machines are instructed to process the data and bring out information as required. Though the punched cards may have a series of information punched on it, such entire information may not be utilised in one operation for getting a particular statement. It is restricted to the processing of information as required for a particular purpose.

These machines can perform a number of arithmetical calculations and furnish the information needed.

The specifically structured blank cards are converted into cards with a series of holes containing the basic data. Thus, during the process of punching and verifying, there is a conversion in the form of blank cards with certain holes in it incorporating the basic data in the cards.

In the operation through the unit record set up computer, there is further processing and further information is punched on the cards using calculating machines. Finally, the data in these cards is printed on blank continuous stationery according to the requirements of the customers of the company. Thus, during this operation, there is a conversion of blank paper into various statements like receipts and payments account, stock ledgers, pay-sheets, etc.

The blank cards and blank stationery are the raw materials used by the company for its processing. The systems and procedures adopted by the company for processing is the blue print and production plan and the final statements are the finished product. There is consumption and wastage of cards and stationery during the process just like in any other manufacturing or processing activity.

The company''s job is to get the data for processing, devise ways and means of processing these data including drawing up a suitable format for the final statements, getting it printed on continuous stationery, make it into the form of book bound by staplers or binders specially used for this purpose and then hand them over to the customers for their use in the finished state of cash book, ledgers, stock records, etc.

All these activities dovetail into one another and the stage from the receiving of the basic data right up to the handing over of the final statements to the customers is one integrated activity.

In the activities carried out by the company, there is a physical transformation of blank cards and blank stationery into punched cards and statements bound in the form of a book. Punched cards and statements made in the form of a book is different from blank cards and blank continuous stationery. The punches cards after the entire processing is completed is comparable to the scrap generated in a manufacturing or processing activity ."

8. It will be clear from these activities that the assessee receives vouchers and statement of accounts from the customer and they are converted into the required balance-sheet, stock account, sales analysis, etc. They are got printed as per the requirements of the customer. In all these activities, the assessee has to play an active role by co ordination the activities and collecting the information. Such activities, in our opinion, could fairly fall within the concept of processing of goods, if not manufacture of goods. The Gujarat High Court in Commissioner of Income Tax, Gujarat Vs. Ajay Printery Private Ltd., has gone a step further and held that the printing of balance-sheets, profit and loss accounts, dividend warrants, pamphlets, share certificates, etc., required by companies is a business which consists wholly of manufacture of goods within the meaning of clause (ii) of Explanation 2 to s. 23A of the Indian I.T. Act of 1922.

9. In Commissioner of Income Tax Vs. Commercial Laws of India Pvt. Ltd., , the Madras High Court held that folding and stitching of the printed sheets by employing some labour contractors without even a printing machine would

constitute "processing of goods".

10. In Addl. Commissioner of Income Tax Vs. A. Mukherjee and Co. (P.) Ltd., , the Calcutta High Court, while considering the activities of an assessee engaged in purchasing of paper, printing and other materials and getting them bound, held that it involved a considerable amount of processing and also involved the activity of manufacturing of books which are to be termed as goods.

11. Having regard to the activities of the assessee and in the light of the decisions to which we have called attention, we are firmly of the opinion that the view taken by the Tribunal is correct. We accordingly answer the question in the affirmative and against the Revenue.

