

(1964) 10 MP CK 0008

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No. 124 of 1964

Commissioner of Sales Tax

APPELLANT

Vs

Bakhat Rai and Co.

RESPONDENT

Date of Decision : 28-10-1964

Acts Referred:

Madhya Pradesh General Sales Tax Act, 1958 — Item 3, 44

Citation : (1970) ILR (MP) 1020 : (1966) JLJ 772 : (1966) 11 MPLJ 977 :
(1966) 18 STC 285

Hon'ble Judges : P.V. Dixit, C.J.; Shiv Dayal, J

Bench : Division Bench

Advocate : R.J. Bhawe, for the Appellant; None, for the Respondent

Judgement

This Judgment has been overruled by : The State of Orissa Vs. Dinabandhu Sahu and Sons, AIR 1976 SC 1561 : (1976) 4 SCC 431 : (1976) 3 SCR 966 : (1976) 37 STC 583

P.V. Dixit, C.J.

This is a reference u/s 44 of the Madhya Pradesh General Sales Tax Act, 1958, at the instance of the Commissioner of Sales Tax, Madhya Pradesh. The question which has been posed before us is -

Whether cocoanuts, groundnut kernel and jira are oil-seeds coming under item No. 3 of Part II of Schedule I to the Act and, therefore, sales thereof are liable to tax at 0-0-3 in the rupee?

During the course of sales tax assessment proceedings for the period from 15th November, 1955, to 2nd November, 1956, u/s 11(3) of the Central Provinces and Berar Sales Tax Act, 1947 (hereinafter referred to as the Act), the assessee M/s. Bakhat Rai and Co., a dealer in kirana and vegetable oil, contended that his sale transactions of cocoanut, groundnut kernel and jira were taxable as "oil-seeds" at the rate of three pies in a rupee under Part II of Schedule I of the Act, and that sales tax on those transactions could not be imposed at the rate of six pies

in a rupee u/s 5(1)(c) of the Act. This contention was rejected by the Sales Tax Authorities. It was, however, accepted in second appeal by the Sales Tax Tribunal taking the view that cocoanuts, groundnut kernel and jira were oil-seeds inasmuch as they were seeds and oil could be extracted from them.

In our judgment, the view taken by the Tribunal is not correct. The classes of goods mentioned in Part II of Schedule I of the Act are taxable at the rate of three pies in a rupee, and item No. 3 of this Part speaks of "oil-seeds subject to the provisions of entry 36 in Schedule II". Under entry 36 of Schedule II oil-seeds sold for bona fide use in an oil-ghani, operated exclusively by human or animal agency, are exempt from tax on production of a certificate granted by the authority in the prescribed manner. 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. This rule of construction is firmly settled by the decision of the Supreme Court in *Ramavatar Budhaiprasad Etc. Vs. Assistant Sales Tax Officer, Akola*, . In its popular sense, the word "oil-seeds" means various kinds of grain which are principally used for extraction of oil. Any seed or fruit from which oil can be extracted but which is used more for other purposes than for extraction of oil does not fall within the popular meaning of the term "oil-seeds". Coconut is a fruit of coco-palm, and oil can be extracted from it. But it is not an oil-seed the principal use of which is extraction of oil. Cod-liver oil is extracted from the liver of cod-fish. But one does not speak of the liver of cod-fish as an oil-seed. So also 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. Jira is a kind of spice and it is very rarely that it is used for extraction of oil. In these days with the advance in scientific knowledge and technological development, it is no doubt possible to extract oil, one may say almost from "anything". But every article or seed which can yield oil is not an oil-seed as contemplated by item No. 3 of Part II of Schedule I. 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 cocoanuts, groundnuts and jira fall within the meaning of the term "oil-seeds" as used in Part II of Schedule I of the Act. If these articles do not fall under item No. 3 of Part II of Schedule I, then they cannot be classified under any goods mentioned in Schedule I or Schedule II. Therefore, u/s 5(1)(c) of the Act the sales tax leviable on them is at the rate of six pies in a rupee.

The view we have taken is not different from that expressed in *State of Andhra Pradesh v. Kajjam Ramachandraiah* [1961] 12 S.T.C. 795 where the Andhra Pradesh High Court has held that the term "oil-seeds" as used in item No. 3 of Schedule IV of the Andhra Pradesh General Sales Tax Act, 1957, means "oil-seeds which in common parlance would be taken as oil-seeds, but not every seed from which by some process or other oil can be extracted". The learned Judges

of the Andhra Pradesh High Court held that coriander, ajwan and sompu are used as spices and are not known as oil-seeds and consequently they did not fall within the definition of "oil-seeds" mentioned in item No. 3 of Schedule IV.

For these reasons, our answer to the question stated for our decision is that cocoanut, groundnut kernel and jira are not oil-seeds falling under item No. 3 of Part II of Schedule I of the Act, and consequently sales tax at the rate of three pies in a rupee cannot be levied on them. In the circumstances of the case, there will be no order as to costs.