(1985) 12 MP CK 0039

In the Madhya Pradesh High Court

Case No : M.C.C. No. 178 of 1984

Commissioner of Sales Tax — APPELLANT

Vs

Bheraji Ramlal — RESPONDENT

Date of Decision : 04-12-1985

Acts Referred:
Central Sales Tax Act, 1956 — Section 14

Citation : (1986) 63 STC 140

Hon'ble Judges : K.L. Shrivastava, J;G.G. Sohani, J

Bench : Division Bench

Advocate : S.R. Joshi, for the Appellant; G.M. Chaphekar and Samvatsar, for the Respondent

Judgement

G.G. Sohani, J.—By this reference u/s 44 of the M.P. General Sales Tax Act, 1958 (hereinafter referred to as "the Act"), the Board of Revenue has referred the following question of law to this Court for its opinion:

Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that seeds of dhania and matar are seeds of vegetable and, therefore, subject to exemption from tax in terms of separate Revenue Department''s Notification No. 1057-537-V-ST dated 7th April, 1967, as extended from time to time ?

2. The material facts giving rise to this reference, as set out in the order of reference, briefly, are as follows:

The assessee, who at the material time was carrying on business in seeds of vegetables and pesticides, was assessed to tax by the Assistant Sales Tax Officer for the period from 1st April, 1976, to 31st March, 1977. The assessee claimed exemption in respect of chillies, "matar", "moong" and "dhania" under the following Notification No. 1057-537-V-ST dated 7th April, 1967:

Seeds, plants and bulbs of vegetables, grass, fruits and flowers other than seeds which are covered by the term ''oil-seeds'' specified in Section 14 of the Central

Sales Tax Act, 1956 (No. 74 of 1956).

The Assistant Sales Tax Officer held that the aforesaid goods did not fall in the category of vegetable seeds and hence he rejected the claim of the assessee. The appeal preferred by the assessee before the Deputy Commissioner of Sales Tax was rejected. On further appeal to the Tribunal, the Tribunal held that green "dhania" was sold as vegetable and therefore seeds of "dhania" could be treated as seeds of vegetable. The Tribunal further held that the seeds of "matar" could also be considered as seeds of vegetable. In this view of the matter, the Tribunal held that seeds of dhania and matar would qualify for exemption as claimed by the assessee. Aggrieved by the order of the Tribunal, the department sought a reference and it is at the instance of the department that the aforesaid question has been referred to us for our opinion.

3. The short question that arises for consideration in this case is whether seeds of dhania and matar fall within the category of goods described as seeds of vegetable. It is now well-settled that the word "vegetable" in taxing statutes must be construed as understood in common parlance and that it must be given that sense which people conversant with the subject-matter with which the statute is dealing would attribute to it [see State of West Bengal and Others Vs. Washi Ahmed and Others, So construed, the Tribunal in our opinion was justified in holding that seeds of dhania and matar are seeds of vegetable and, therefore, subject to exemption from tax in terms of the notification in question.

4. We accordingly answer the question referred to us in the affirmative and against the department. In the circumstances of the case, parties shall bear their own costs of the reference.

