(1973) 03 AHC CK 0007

In the Allahabad High Court

Case No : S.T.R. No. 698 of 1971

Commissioner of Sales Tax — APPELLANT

Vs

Naveen Traders — RESPONDENT

Date of Decision : 27-03-1973

Acts Referred:
Uttar Pradesh Sales Tax Act, 1948 — Section 4

Citation : (1975) 36 STC 440

Hon'ble Judges : R.L. Gulati, J;C.S.P. Singh, J

Bench : Division Bench

Advocate : P.N. Pachauri and J.P. Bajpai, for the Respondent

Judgement

C.S.P. Singh, J.—The Additional Judge (Revisions), Sales Tax, Aligarh Range, Aligarh, has at the instance of the Commissioner of Sales Tax, U. P., referred the following two questions for our opinion :

(1) Vad ki paristithiyon wa tathiyon ko dekhte hoe kiya "rice bran" ko Rajya Vigyapti No. ST-3471/X dinak 16th July, 1956, ke anusar bhusi ki shriri men rakhha ja sakta hai ?

(2) Vad ki paristithiyon aur tathiyon ko dekhte hoe kiya manniya aterikt nyayadhish (punrikshan) ka nirnai upyukt hai ?

2. The assessee owns a rice mill. It purchased paddy and after processing it obtained rice. Thereafter, the rice so obtained is subjected to polishing process. As a result of this process, the outer surface of the rice is scraped off. The scraping so obtained, which is in powder form is called rice bran and in Etawah district, where this mill is situate, this product is also known as "polish". The bran so obtained is used for either extracting oil or for feeding cattle. By Notification No. ST-911/X dated 31st March, 1956, the State Government in exercise of powers conferred by Section 4 of the U. P. Sales Tax Act exempted with effect from 1st April, 1956, amongst other articles "cattle fodder including green fodder" from payment of tax. This notification was amended by Notification No.

ST-3471/X dated 16th July, 1956, and for the entry "cattle fodder and green fodder" the following was substituted:

Cattle fodder including green fodder, chuni, bhusi, chhilka, chokar, cotton seed, gowar and oil-cake.

3. The assessee claimed that rice bran was exempt under this notification. This contention was neither accepted by the Sales Tax Officer nor by the Assistant Commissioner, Sales Tax. The revising authority, however, took the view that rice bran was nothing but bhusi of rice, because it was the inner husk of the rice and as such was exempt from tax. We are unable to agree with the view of the revising authority. 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, as has been held by the revising authority. Moreover, it is clear from the findings recorded that rice bran in respect of which exemption is claimed is powdered rice, which is obtained in the polishing process. It is difficult to appreciate how this powdered form of rice can be termed as bhusi of rice. Bhusi is nothing but a fine form of bhusa, which in turn is obtained by thrashing of stems, leaves and the outer husk of grain. The rice bran in question, as has been seen, is obtained during the polishing process of the grain itself. It is not a product obtained from stalk, leaves or the husk of paddy or rice. The counsel for the assessee drew our attention to the meaning of the word "bran" as given in the Chambers''s English Dictionary and the meanings of the words "bhusi" and "bhusa" given in the Brahat Hindi Kosh by Kalka Prasad. None of the meanings given in these two publications are of any assistance to the assessee''s case. "Bhusa" and "bhusi" as understood in common parlance are commodities obtained from stalk, leaves and husk of grains. "Rice bran" cannot be termed as "bhusi of rice". We, therefore, answer both the questions in the negative and in favour of the department. The department is entitled to its costs which we assess at Rs. 100. Counsel''s fee is assessed at the same figure.

