
(1972) 11 AHC CK 0014

In the Allahabad High Court

Case No : Miscellaneous Sales Tax Reference No. 341 of 1970

Commissioner of Sales Tax

APPELLANT

Vs

Ram Kumar Nand Kumar

RESPONDENT

Date of Decision : 22-11-1972

Acts Referred:

Central Sales Tax Act, 1956 — Section 14, 15
Constitution of India, 1950 — Article 286

Citation : (1973) 31 STC 321

Hon'ble Judges : T.S. Misra, J; R.L. Gulati, J

Bench : Division Bench

Advocate : N. Chanda, for the Respondent

Final Decision : Disposed Of

Judgement

R.L. Gulati, J.—This is a reference u/s 11(1) of the U. P. Sales Tax Act.

2. The assessee is a dealer in kirana goods. It was assessed to tax under the U.P. Sales Tax Act on an estimated turnover of Rs. 16,00,000.00 for the assessment year 1966-67. One of the commodities, the turnover of which is included in the assessed turnover, is coconuts. The assessee claimed that coconuts are "oil-seeds" and u/s 3-AA its turnover is liable to tax at the rate of 2 per cent. The Sales Tax Officer and the Assistant Commissioner (Judicial), on appeal, have held that coconuts are dry fruits and its turnover is assessable at the rate of 3 per cent. The Judge (Revisions) has agreed with the contention of the assessee and has held that coconuts are "oil-seeds". The Commissioner of Sales Tax is aggrieved and at his instance the Judge (Revisions), Sales Tax, Lucknow, has made this reference on the following question :

Whether on the facts and circumstances of the case, coconut is an oil-seed or a dry fruit ?

3. The distinction between oil-seeds and dry fruits is relevant only for purposes of Section 3-AA of the Act. Section 3-AA has a special significance inasmuch as it

has been enacted to give effect to Article 286(3) of the Constitution. That article, after its amendment in 1956, provided :

Any law of a State shall, in so far as it imposes, or authorises the imposition of, a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce, be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify.

4. In pursuance of this directive, the Parliament enacted the Central Sales Tax Act (74 of 1956), which by Section 14 specified the commodities which were of special importance in inter-State trade or commerce and by Section 15 imposed conditions that such commodities shall not be taxed at more than one stage and the rate of tax shall not exceed 2 per cent. of the sale price. On account of these restrictions, the U. P. Sales Tax Act was amended by the addition of Section 3-AA with retrospective effect from 1st April, 1956, This provision sets out certain commodities as have been mentioned in Section 14 of the Central Sales Tax Act and provides that such goods shall not be liable to tax except at the point of sale by a dealer to the consumer and the rate of tax shall be such, not exceeding the maximum rate for the time being specified in Section 15 of the Central Sales Tax Act, as may be declared by the State Government by notification in the official Gazette. Section 3-AA mentions altogether seven commodities enumerated in Clauses (i) to (vi) of Sub-section (1). Clause (vi) relates to "oil-seeds" and reads:

Oil-seeds, that is to say, seeds yielding non-volatile oils used for human consumption or in industry, or in the manufacture of varnishes, soaps and the like, or in lubrication and volatile oils used chiefly in medicines, perfumes, cosmetics and the like.

5. Thus Section 3-AA not only specifies oil-seeds as one of the commodities of special importance in inter-State trade or commerce, but also gives the definition of that word.

6. If a commodity satisfies the definition of "oil-seeds" as given in Section 3-AA, its turnover cannot be taxed at the general rate u/s 3, but must be assessed at the rate specified in a notification u/s 3-AA. Now, it is a matter of common knowledge that coconuts yield non-volatile edible oil, which is extensively used for cooking purposes throughout the country, mainly in the south. It is also used for the manufacture of vanaspati, soaps and perfumed hair-oils. Oil is extracted from the kernel of coconut, which is encased in a hard shell. The kernel when dry is known as "copra". Oil is extracted from copra. There is thus no doubt that coconut is an oil yielding substance. The only question, therefore, is as to whether it can be called a "seed".

7. The dictionary meaning of the word "seed" is that it is a flowering plant's unit of reproduction or germ capable of developing into another such plant. The unit of reproduction of the coconut plant which is a flowering plant is the whole coconut with its shell and husk on. When it is planted in earth it developed into

another coconut plant. If that is the position then it is clear that a coconut is itself a seed and since oil can be extracted from it, it is an oil-seed within the meaning of that expression as given in Section 3-AA of the Act. Similar view has been taken by the Mysore High Court in *Kasturi Seshagiri Pai & Co. v. Deputy Commissioner of South Kanara* [1961] 12 S.T.C. 629 and the Kerala High Court in *Sales Tax Officer, Kozhikode v. K. V. Moosa Koya and Anr.* [1966] 18 S.T.C. 464 .

8. That apart, even in the commercial world with which the U. P. Sales Tax Act is concerned, coconut is known as an "oil-seed". Our attention has been drawn to the "Economic Times", a newspaper issued from Bombay, dated 29th September, 1972, which sets out the prices of various commodities in the market. Under the head "oils and oil-seeds" occurs coconut of various qualities. Coconut oil has separately been mentioned. Thus it is clear that in the commercial world, coconuts are bought and sold as oil-seeds. In that newspaper there is a separate heading for dry fruits. Coconut or copra is not mentioned under that heading.

9. It is true that in northern parts of India, green coconut is regarded as a fruit and copra (dry coconut) is regarded as a dry fruit. But that does not mean that coconuts cease to be oil-seeds. We have to bear in mind that oil-seeds have been declared by the Parliament to be goods of special importance in inter-State trade and commerce and have been given a sort of protection against excessive levy of tax by the States. We cannot, therefore, give it a restricted meaning. Our interpretation of the term "oil-seed" should be such as should hold good throughout the country. Coconuts are known as "oil-seeds" in that part of the country where they are grown and are extensively used as a source for edible and commercial oil. They are also dealt with in the market as "oil-seeds". The definition of "oil-seeds" given in Section 3-AA has been borrowed from the Central Sales Tax Act which is an all India Act. This definition indeed is very wide and would cover coconuts in every respect. Moreover, it is also a well-settled principle that in taxing statutes where two interpretations are possible, the one which favours the taxpayers should be preferred.

10. Our attention has been drawn to a case of the Madras High Court in *S. Kannappa Mudaliar v. State of Madras* [1968] 21 S.T.C. 41 and of the Madhya Pradesh High Court in *Commissioner of Sales Tax, M. P., Indore v. Bakhat Rai and Co.* [1966] 18 S.T.C. 285 where a contrary view has been taken. In these two cases the provisions of the Central Sales Tax Act were not taken into consideration and for that reason, we are, with respect, unable to agree with the view expressed in those cases. We accordingly hold that coconuts are oil-seeds.

11. The question referred to us is not happily worded. The words "oil-seed" and "dry fruit" are not mutually exclusive. Something which is an oil-seed may as well be a dry fruit. Indeed that is the position with regard to coconuts. The real question that arises is as to whether tax is leviable on the turnover of coconut in accordance with Section 3-AA or under the general charging Section 3. We accordingly reframe the question as follows :

Whether coconuts are oil-seeds as defined in Section 3-AA(1)(vi) of the U. P. Sales Tax Act ?

12. We answer the question as reframed by us in the affirmative. The assessee is entitled to the costs which we assess at Rs. 100.