

**(1989) 04 PAT CK 0006**

**In the Patna High Court**

**Case No :** Civil Writ Jurisdiction Case No. 147 of 1986

Dhanbad Flour Mills

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

**Date of Decision :** 18-04-1989

**Acts Referred:**

Bihar Finance Act, 1981 — Section 11(3), 12, 13, 14, 14(1)  
Central Sales Tax Act, 1956 — Section 14

**Citation :** (1990) 1 PLJR 494

**Hon'ble Judges :** D.K. Sen, C.J.; S.N. Jha, J

**Bench :** Division Bench

**Advocate :** L.M. Singhvi, Pawan Kumar and L.K. Tiwary, for the Appellant; J.N.P. Sinha, for the Respondent

**Final Decision :** Allowed

## Judgement

D.K. Sen, C.J.—The material facts in this proceeding are inter alia, that M/s Dhanbad Flour Mills, the Petitioner, a partnership firm, owns and runs a flour mill where wheat is crushed and various products, like Atta, Maida, Sujji and bran are produced.

2. The Deputy Commissioner of Commercial Taxes, Urban Circle, Dhanbad, the Respondent No. 3 herein by his memorandum dated the 28th December, 1985, called upon the Petitioner to deposit an amount of additional tax outstanding u/s 6 of the Bihar Finance Act, 1981, on the sale of Atta, Maida and Sujji by the Petitioner by the with January, 1936, failing which it was stated that penalty u/s 16(9) of the said Act would be imposed on the Petitioner,

3. In answer to the said memorandum the Petitioner filed an objection before the Respondent No. 3 contending, inter alia, that no additional tax could be levied on the sale of Atta, Maida and Sujji inasmuch as they were declared goods u/s 14 of the Central Sales Tax Act, 1956, as goods of special importance of inter-State trade or commerce. It was contended further that by notification issued by the Government of Bihar dated the 21th October, 1981, all declared goods u/s 14 of

the Central Sales Tax Act, 1956, have been exempted from the levy of additional tax u/s 6 of the Bihar Finance Act, 1981.

4. It was contended further that the items Atta, Maida and Sujji were essentially cereals and as such came within the ambit of Section 14 of the Central Sales Tax Act, and were not, exigible to the said additional tax. In support of such contention the Petitioner relied on decisions of this Court as also of the Bombay High Court. The Petitioner contended that it was not liable to pay any additional tax on the sale of Atta, maida and Sujji.

5. By his order dated the 6th January, 1986, the Respondent No. 3 rejected the contention raised by the Petitioner in its objection and affirmed the demands of additional tax for the assessment years 1981-82 to 1984-85. He called upon the Petitioner to deposit additional<sup>1</sup> tax demanded by the 11th January, 1986.

6. The Petitioner filed this civil writ petition in this Court on the 9th January, 1986. On the 10th January, 1986, an interim order "was passed in this proceeding staying recovery of the disputed tax during the pendency of the proceedings.

7. In this civil writ petition the Petitioner has reiterated the contentions raised before the Respondent No. 3 in its written objection. The Petitioner contends further that the products, Atta, Maida and Sujji, are essentially cereals as will appear from the meaning of the expression "cereal" as given in the dictionary, and also held in various reported decisions of the Courts in India.

8. The Petitioner also referred to various other writ petitions on the same question which had been admitted in this Court and orders of stay had been passed in such proceeding.

9. One Shambhu Sharan, Special officer in the Department of Commercial Taxes, Bihar, presently posted at Patna, has affirmed a counter affidavit on the 9th April, 1986, which has been filed in answer to the writ petition. It is inter alia, contended in the said affidavit that the items "Atta" Maida and "Sujji" do not fall within the parameter of Section 14 of the Central Sales Tax Act, 1956. as the article falling under cereals have been specified and identified. It is contended that it was not open -to the writ Petitioner to expand the scope and ambit of the said Section 14 and include therein Atta, Maida and Sujji. The same would amount to amendment of the section.

10. It is contended that inasmuch as the items, Atta, Maida and Sujji, were not included in the list of declared goods u/s 14 of the Central Sales Tax Act, 1956, the said items have been included in a separate category by the Government of Bihar by notification No. 14545 dated the 26th December, 1977, in Entry No. 11 where the items Atta, Maida and Sujji were made exigible to sales tax and additional sales tax at specified rates. It is contended further that Respondent No. 3 had jurisdiction and was justified in calling upon the Petitioner to pay additional tax on the said items and on default of the Petitioner to comply with the demand was entitled to levy penalty u/s 16(9) of the Bihar Finance Act, 1981.

11. One Madhukar Prasad, an employee of the Petitioner, had affirmed a supplementary affidavit on the 8th April, 1987, which has been filed in this proceeding. It is, inter alia, alleged in the said affidavit that the items Atta, Maida and Sujji are nothing but wheat in broken forms and as such come under the category of wheat, as defined in Section 14 of the Central Sales Tax Act. It is contended further that under the Wheat Roller Flour Mills (Licensing and Control) Order, 1957, a roller mill has been defined to be a flour mill where the process of disintegration of wheat is carried out.

12. It is contended further that the items Atta, Maida and Sujji are nothing but wheat in disintegrated form and have all been characteristic of a cereal, as has been certified in the letter dated the 27th March, 1987, issued by the Director of Trade Services, United States Wheat Associates. Similarly, a letter has been issued by an expert, namely, Dr. N.K. Gupta to the same effect. Three affidavits affirmed by the persons engaged in the purchase and sale of the products in the market have been annexed and relied upon where it is stated, inter alia, that the Atta, Maida and Sujji are nothing but wheat in a different form and are sold in the market as such.

13. Shambhu Sharan, at present Secretary to the Joint Commissioner of Commercial Taxes, Patna, has affirmed a supplementary counter affidavit on the 22nd November, 1988. It is stated, inter alia, in this affidavit that at the 20th meeting of the West Zone Regional Council the proposal of the Government of Punjab for amendment of Section 14 of the Central Sales Tax Act, 1956, for inclusion of Atta, Maida and Sujji as declared goods were inter alia, considered but was not approved. Subsequently, the Central Government decided not to accept the suggestion. In this connection a letter dated the 16th November, 1986, from the Under Secretary to the Government of India, issued to all Finance/Revenue Secretaries In charge of Sales Tax in all States/Union Territories, have been referred to and a copy of the same has been annexed.

14. To appreciate the controversy involved in the instant case it will be convenient at this stage to consider the relevant statutory provisions.

Bihar Finance Act, 1981

Section 6. Notwithstanding anything contained in Sub-section (3) of Sections 11, 12, 13 and 21 or in any notification issued thereunder every dealer having a gross turnover exceeding the specified quantum as laid down in Section 3 shall, with effect from a date to be specified by the State Government by a notification published in Official Gazette, pay an additional tax at such rate, not exceeding two per centum of his gross turnover (excluding the sale or purchase of goods which have taken place either in the course of inter-State trade or commerce, or outside the State, or in the course of import of goods into, or export of goods out of the territory of India) as the State Government may, from time to time by notification in the Official Gazette fix Provided that State Government may fix different rates within the ceiling rate of 2 per centum on the gross turnover of

different goods.

X X X X

(2) The State Government may by notification and subject to such conditions and restrictions as it may impose exempt, from the levy of additional tax gross turn-over in respect of the goods or class or description of goods.

Central Sales Tax Act, 1956.

Section 14. Certain goods to be of special importance in inter-State trade or commerce.?It is hereby declared that the following goods are of special importance in inter-State trade or commerce--

(i) Cereals, that is to say--

(i) Paddy

(ii) Rice

(iii) Wheat

(iv) Jowar or milo

(v) bajra

(vi) maize

(vii) ragi

(viii) kodon

(ix) kutki

(x) barley.

(iv) iron and steel, that is to say--

(i) Pig iron and cast iron including ingot moulds, bottom plates, iron scrap, cast iron scrap, runner scrap and iron skull scrap,

(ii) steel semis (ingots, slabs, blooms and billets of all qualities, shapes and sizes)

(iii) skelp bars, tin bars, sheet bars, hoe-bars and sleeper bars,

(iv) steel bars (rounds, rods, squared flats, octagons and hexagons, plain and ribbed or twisted, in coil form as well as straight lengths),

(v) steel structurals (angles, joists, channels, tees, sheet piling sections, sections or any other rolled section

(vi) sheets, hoops, strips and help both black and galvanised, hot and cold rolled, plain and corrugated, in all qualities in straight lengths and, coil form, as rolled and in rivetted condition,

(vii) plates both plain and chequered in all qualities,

- (viii) discs, rings, forging and steel castings
- (ix) tool, alloy and special steels of any of the above categories,
- (x) steel melting scrap in all forms including steel skull, turnings and borings,
- (xi) steel tubes, both welded and seamless, of all diameters and lengths including tube fittings,
- (xii) tin-plates both hot dipped and electrolytic and tinfree plates,
- (xiii) fish plate bars, bearing plate bars, crossing sleeper bars, fish plates, bearing plates, crossing sleepers and pressed steel sleepers, rails-heavy and light crane rails,
- (xiv) wheels, tyres, axles and wheel sets.
- (xv) wire rods and wires-rolled, drawn, galvanised, aluminised, tinned or coated such as by copper.
- (xvi) defectives rejects, cuttings or end pieces of any of the above categories.

15. In his submission before us the learned Advocate for the Petitioner reiterated the contentions in the petition and submitted further that the item wheat occurring in Section 14 of the Central Sales Tax Act, 1956 should be construed liberally and the items "Atta, Maida and Sujji, which were nothing but wheat in a different form, should be allowed the benefit of exemption from additional tax. Learned Advocate cited a number of decisions where the same items have been construed liberally and where the item wheat has been considered and construed in the context of other statutes and it was held that the same included its direct products like Atta and Maida.

16. Learned Government Advocate appearing for Respondents contended to the contrary. He submitted that in the said statute, i.e. the Central Sales Tax Act, 1956, specific exemption has been given to wheat and nothing else and it was not for the Courts to extend the ambit of operation of the statute. He submitted that Atta, Maida and Sujji, though derived from wheat, were in fact different products both in the commercial sense as also in the popular sense and, therefore, the said items could not be included in the item wheat as occurring in the statute. He submitted further that items others than wheat in the same statute have been construed strictly by the Courts.

17. In support of the respective contentions the following decisions were cited at the Bar:

(a) Bhola Prasad v. Emperor reported in AIR 1942 F.C. 17. This decision of the Federal Court was cited on behalf of the Petitioner for the following observations of Gwyer, C.J.--

...A power to regulate may well imply the continued existence of the thing to be regulated, but no such implication can arise from words in the entry which, as we

have said, only explain or illustrate the more concise expression which immediately precedes them....

...enactments ought not to be subjected to the minute scrutiny which may be appropriate to an examination of the by laws of a body exercising only delegated powers, nor is the generality of its power to legislate on a particular subject to be cut down by the arbitrary introduction of far fetched and impertinent limitations....

(b) *Megh Raj and Anr. v. Allah Rakhia and Ors.* Reported in AIR 1947 P.C. 72. This decision of the Privy Council was also cited on behalf of the Petitioner. In this case the Privy Council considered and construed Item 21 in the Provincial List II Schedule 7 of the Government of India Act, 1935, which contained to expression that is the say. The following observations from the opinion of Sir John Beaumont was relied on:--

...As to Item 21, "Land" the governing word is followed by the rest of the item, which goes on to say, "that is to say". These words introduce the most general concept-Tights in or over land. Rights in (sic) include general rights like full ownership or leasehold or all such rights "Rights over land" would include easements or other collateral rights, whatever form they might take. Then follow words which are not words of limitation but of explanation or illustration, giving instances which may furnish a clue for particular matters....

...The particular and limited specification of agricultural land proves that "land" is not used in item 21 with restricted reference to agricultural land but relates to land in general....

(c) *Kapildeoram Baljnath Prasad v. J.K. Das and Ors.* reported in 5 S.T.C. 365. In this case a Division Bench of the Assam High Court construed and considered Item 1 of Schedule 3 of the Assam Sales Tax Act, 1947, which exempted from taxation "all cereals and pulses including all forms of rice". It was held that both chura and muri were cereals. Though they were made out of rice or paddy by the process of boiling or parching, they did not lose their character as cereals. It was held that some items were exempt from sales tax.

(d) *Vaiswaner Trading Co. Vs. The State of Gujarat*, . This decision of a Division Bench of the Gujarat High Court constituted by Shelat, C.J. and P.N. Bhagwati, J., was relied on by the Petitioner. The High Court considered and construed entry 4(d)(iv) of Schedule AA of the Bombay Sales Tax Act, 1953. The said entry covered the direct products of the rolling mills. A question arose when of rolled steel sections were joined together by rivetting, whether the same would still fall within the said entry. It was held by the Division Bench that the rivetted baling hoops were nothing but pieces of rolled steel sections joined together by rivetting which came within the said entry and not in the residuary entry.

(e) *Commissioner of Income Tax, Patiala and Others Vs. Shahzada Nand and Sons and Others*, . In this decision cited on behalf of the Respondents the

Supreme Court approved and reiterated the proposition of law laid down by Rowlatt J. in *Cape Brandy Syndicate v. Inland Revenue Commissioner* reported in (1921) 1 K.B. 64:

In a Taxing Act one has to look me rely at what is clearly said. There is no roon for any intendment. There is no equity about a tax. There is no presumption as to a tax. Nothing is to be read in. Nothing is to be implied. One can only look fairly at the language.

The Supreme Court further observed as follows:

To this may be added a rider : in a case of reasonable doubt, the construction most beneficial to the subject is to be adopted. But even so, the fundamental rule of construction is the same for all statutes, whether fiscal or otherwise. The underlying principle is that the meaning and intention of a statute must be collected from the plain and unambiguous expression used therein rather than from any notions which any be entertained by the Court as to what is just or expedient. The expressed intention must guide the Court.

(f) *Tilok Chand Prasan Kumar Vs. The Sales Tax Officer*, . This decision was cited on behalf of the Petitioner. In this case a Division Bench of the Allahabad High Court considered and construed Section 3-D of the U.P. Sales Tax Act 1948, under which a tax was imposed on the turnover of first purchase; in respect of food grains, including cereals and pulses at a particular rate by a notification dated the 1st Oct. 1964. A question arose whether "Arhar Ki Dal", purchased by the Dil Mills, thereafter cleaned by removing the husk and breaking in to smaller particles of different sizes, which were sold under different names, could come within the ambit of the said notification and whether a person purchasing such broken down products from the Dal Mills would be held to have made a first purchase again exigible purchase tax.

It was held that the product purchased by the buyers from the Dal Mills could not be said to be a commodity essentially different from the commodity purchased by the Dal Mills and as such the purchase of the processed product by the Dal Mills would not be regarded as first purchase and liable to purchase tax.

(g) *State of Tamil Nadu Vs. Pyare Lal Malhotra and Others*, . This decision of the Supreme Court was strongly relied and cited on behalf of the Respondents. In this case the Supreme Court considered and construed Entry No. (iv) in Section 14 of the Central Sales Tax Act, 1956, which has been set out hereinbefore. The question before the Supreme Court was whether items steel rounds, flats, angles, plates, bars or similar goods in other forms and shapes would be exigible to sales tax again even if the material out of which they were made had already been subjected to sales tax once as iron and steel scrap. Construing Section 14 of the statute it was held by the Supreme Court that under the said section iron and steel were divided into sixteen categories covering widely different commercial commodities from mere scrap iron and left overs of processes of manufacturing. Some of the enumerated items like melting scrap and special

steels would be raw materials out of which other goods could be made and the other enumerated items specified varieties of manufactured goods. It was held that the section was intended to enumerate separately taxable goods and not to illustrate one taxable substance iron and steel.

The Supreme Court also construed the meaning of the expression "that is to say" and observed as follows:

...ordinarily, the expression that is to say is employed to make clear and fix the meaning of what is to be explained or defined. Such words are not used, as a rule, to amplify a meaning while removing a possible doubt for which purpose the word includes is generally employed. In unusual cases, depending upon the context of the words "that is to say" this expression may be followed by illustrative instance. In *Megh Raj v. Allah Rakhia* the words that is to say with reference to a general category "land" were held to introduce "the most general concept" when followed, inter alia, by the words "right in or over land. We think that the precise meaning of the words that is to say must vary with the context....

...But, in the context of single point sales tax, subject to special conditions when imposed on separate categories of specified goods, the expression was apparently meant to exhaustively enumerate the kinds of goods on a given list. The purpose of an enumeration in a statute dealing with sales tax at a single point in a series of sales would, very naturally, be to indicate the types of goods each of which would constitute a separate class for a series of sales. Otherwise, the listing itself loses all meaning and would be without any purpose behind it.

As we all know, sales tax law is intended to tax sales of different commercial commodities and not to tax the production or manufacture of particular substances out of which these commodities may have been made. As soon as separate commercial commodities emerge or come into existence, they become separately taxable goods or entities for purposes of sales tax. Where commercial goods, without change of their identity as such goods, are merely subjected to some processing or finishing or are merely joined together, they may remain commercially the goods which cannot be taxed again, in a series, of sales, so long as they retain their identity as goods of a particular type.

...The law of sales tax is also concerned with "goods" of various descriptions. It, therefore, becomes necessary to determine when they ceased to be goods of one taxable description and become those of a commercially different category and description....

It appears to us that the position has been simplified by the amendment of the

law, as indicated above, so that each of the categories falling under "iron and steel" constitutes a new species of commercial commodity more clearly now. It follows that when one commercial commodity is transferred into another, it becomes a separate commodity for purposes of sales tax.

(h) *Commissioner of Sales Tax Vs. Sultan Shev Co.*, . In this case, cited on behalf

of the Petitioner, a Division Bench of the Bombay High Court considered and construed entry 10 of Schedule A of the Bombay Sales Tax Act, 1959, which exempted from sales tax the following items:--

10. Cereals and pulses in all forms and flour including Atta, maida, besan, suji and bran prepared therefrom but excluding maize flour.

Except when sold in sealed, containers.

The question before the Bombay High Court was whether shevaya, that is vermicelli, made out of maida flour was entitled to exemption under the said entry. It was held by the High Court that shevaya or vermicelli was also maida in the form of slender threads and, therefore, was a form of cereal and both maida and shevaya were exempt from sales tax under the said entry. It was observed that merely because maida was separately specified in the entry there was no reason why a form of maida in dried up slender threads should not be a form of cereal.

(i) Alladi Venkateswarlu and Others Vs. Govt. of Andhra Pradesh and Another, . This decision was cited on behalf of the Petitioner. In this case the Supreme Court considered and construed the Andhra Pradesh General Sales Tax Act, 1957. In entry 66 (b) of the First Schedule to the said statute rice was subjected to sales tax at specific rates. The said entry 66 reads as follows:

Description of goods. 66 Rice Point of Levy. Rate of Tax

(a) Rice not covered by sub-item (b) below, At the point of sale by the first wholesale dealer in the State effecting the sale. 6 paise in the rupee,

Provided that a rebate of two paise in the rupee shall be allowed on the rice sold and consumed in the State in accordance, with such rules as may be prescribed.

(b) Rice obtain from paddy that has met tax under this Act. At the point 1 paise of the first in the wholesale rupee, dealer in the State effecting the sale.

The question before the Supreme Court was, whether the preparations of parched rice and. puffed rice, both of which made out of rice by heating or parching, constituted a product different from rice and was subjected to further tax on their sale. It was not in dispute that the paddy out of which the said products were made had already been subjected to tax. It was noted by the Supreme Court that u/s 5(1) of the statute though a dealer had paid a tax of five paise per rupee on paddy as item 8" in the Second Schedule he will have to pay again a tax at the rate of 4 paise on every rupee. for sale of these two items. The Supreme Court held that both the products of rice come within the meaning of entry 66(b) of the First Schedule. of the Statute. The Supreme Court observed as follows:

...We do not think that it is fair to so interpret a taxing statute as to impute an intention to the legislature to go on taxing what is virtually the same product in different forms over and over again. Such a results would be contrary to basic

axioms of taxation. Unless the language of the taxing statute was absolutely clear, it should not be given an obviously unfair interpretation against the Assessee.

It may be that an item may be taxed once as raw material and, after it is manufactured and converted into separately taxable goods, taxed, again as another taxable item altogether. But in such cases, the identity of the goods sold would be deemed to be different even though the raw materials may have been taxed already in a different form earlier....

...But, there are no separate entries for rice and rice reduced into an edible form by heating or parching without any addition of ingredients or appreciable changes in chemical composition. The term "rice" is wide enough to include rice in its various forms whether edible or inedible. Rice in the form of grain is not edible. Parched rice and puffed rice are edible. But the entry "rice seems to us to cover both forms of rice. At any rate; it is wide enough to cover them.

(j) S.K. Nataraja Mudaliar and Co. Vs. The State of Tamil Nadu and Another, This decision has been cited on behalf of the Petitioner. Here a learned Judge of the, Madras High Court considered and construed, the Central Sales Tax Act, 1956, in the context of levy of sales tax on parched or fried gram. The State Government sought to impose additional sales tax on parched and fried gram under the Tamil Nadu General Sales Tax Act, 1959. The learned Judge, inter-alia, has held as follows:

The term pulses and grams used in item (vi-a) of Section 14 of the Central Sales Tax Act, 1956, and item 6-A of the Second Schedule to the Tamil Nadu General Sales Tax Act, 1959, must be taken to cover pulses of all kinds and grams of all kinds. Even parched gram or fried gram in common parlance is still known as gram or dhal. As a result of parching or frying, the moisture, if any, is removed and the gram is split, no new commercial commodity comes into existence. Therefore, fried gram or parched gram come within the meaning of pulses and grams included in item (vi-a) of Section 14 of the Central Sales Tax Act, and item 6-A of the Second Schedule to the Tamil Nadu General Sales Tax Act, 1959 and constitutes declared goods and it will not be open to the State Government to levy sales tax in excess of four per cent as provided u/s 15(a) of the Central Act....

(k) Shri Kishan Satyanarain Vs. State of Madhya Pradesh and Others, , This decision was cited on behalf of the Petitioner. In this case a Division Bench of the High Court of Madhya Pradesh held, Inter-alia that the word "rice as used in Section 14(i) of the Central Sales Tax Act, 1956, should. be understood to include "Puffed rice" and beaten rice and treated as declared goods under the said statute. The Division Bench followed and. applied the decision of the Supreme Court in Alladi Venkateswarlu (supra).

18. On a careful consideration of the respective submissions of the parties and the decisions cited at the Bar, which have been noted earlier, it appears to me that the point at issue in Pyare Lal Malhotra (supra) was different from the issue

which has to be decided in the instant case. In *Pyare Lal Malhotra* (supra) the Supreme Court considered and construed Entry No. (iv) in Section 14 of the Central Sales Tax Act, 1956; which dealt with iron and steel. The general entry "iron and steel" was followed by specific descriptions of different types of iron and steel products. It was held by the Supreme Court that by the enumeration of the different iron and steel products in the statute it was indicated that the items enumerated were intended to be different types of commercial goods and were, separately taxable commodities.

19. In the instant case we are concerned with Entry No. (i) of Section 14 of the Central Sales Tax Act 1956, which deals with generally cereals and includes the item "wheat". There is no further enumeration in the statute of further cereal products derived from the basic products, like rice and wheat. Therefore, on the ratio of the decision of the Supreme Court in *Pyare Lal Malhotra* (supra) it cannot be held that Atta, Maida and Sujji, which are all products derived out of wheat, have been enumerated as in that case as different commercial goods constituting separate classes of taxable commodities in subsequent sales. In fact, the Supreme Court in that case observed that where commercial goods without change of their identity were merely subjected to some processing or finishing or were merely joined together, they might remain commercially the goods which cannot be taxed again. The specific observation of the Supreme Court have been noted hereinbefore.

20. It appears to me that factually it has been established that Atta, Maida and Sujji are derived entirely from wheat by processing the grain to powdered form of different sizes. The object of such processing is primarily to make the grain edible. It is not the Respondents case that anything is added to wheat as an extra ingredient in making Atta, Maida or Sujji. I note that Atta, Maida and Sujji also remain cereals within the dictionary and popular meaning of the term.

20. In my view, the decision of the Supreme Court in the case of *Alladi Venkateswarlu* (supra) is of more relevance to the instant case. It was held by the Supreme Court in that case that preparations of parched rice and puffed rice, which are made out of rice by heating and parching, came within the meaning of "rice under Entry 66(b) of the First Schedule of the Andhra Pradesh General Sales Tax Act, 1957. The Supreme Court noted that there were no separate entries for rice and rice reduced into edible forms by heating or parching without any addition of ingredients or appreciable changes in chemical composition and that the term "rice" is wide enough to include rice in its various forms whether edible or inedible. The same view was taken earlier by a Division Bench of the Assam High Court in the case of *Kapildeo Ram Baijnath Prasad* (supra) and by a Division Bench of the Allahabad High Court in *Tilok Chand Prasan Kumar* (supra). In the latter case it was held that the products obtained by cleaning the grain of Arhar Dal and breaking it into smaller particles of different sizes, which were sold in different names, would not be commodities essentially different from the original commodity.

22. In *Shri Kishan Satyanarain* (supra) a Division Bench of the Madhya Pradesh High Court followed and applied the decision of the Supreme Court in *Alladi Venkateswarlu* (supra) and held that puffed rice and beaten rice will be treated as declared goods u/s 14(1) of the Central Sales Tax Act, 1956.

23. Following the decisions of the Supreme Court in *Alladi Venkateswarlu* (supra) and said other High Courts I hold that Atta, Maida and Sujji, which are obtained merely by reducing the size of wheat grain into smaller particles and powder would be included into item "wheat" in Section 14(i)(iii) and as such should be treated as declared goods under the said statute. as contended on behalf of the Petitioner which I accept.

24. The writ petition is, accordingly, allowed. The impugned orders passed by the Deputy Commissioner of Commercial Taxes, Dhanbad Urban Circle, Dhanbad, (Respondent No. 3, contained in Annexures "2" series of the writ petition, are set aside. Let appropriate writs issue. There will be no order as to costs.

25. The judgment and order hereinabove will govern the three other writ petitions, namely. C.W.J.C. Nos. 1918 and 2725 of 1984 and 5637 of 5685. which were heard along with this writ petition.

S.N. Jha, J.

26. I entirely agree.