
(1981) 11 P&H CK 0009

In the Punjab And Haryana At Chandigarh

Case No : Sales Tax Reference No's. 4 and 5 of 1978

Hindsons (P.) Ltd.

APPELLANT

Vs

The State of Punjab

RESPONDENT

Date of Decision : 06-11-1981

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1982) 49 STC 136

Hon'ble Judges : S.S. Kang, J; M.R. Sharma, J

Bench : Division Bench

Advocate : R.N. Narula, for the Appellant; S.L. Ahluwalia, for Advocate-General, for the Respondent

Judgement

This Judgment has been overruled by : State of Punjab Vs. Hindsons (P) Ltd., AIR 1984 SC 1803 : (1985) 19 ELT 19 : (1984) 2 SCALE 399 : (1984) 1 SCC 415 Supp : (1984) SCC 415 Supp : (1985) 1 SCR 771 : (1985) 58 STC 20 : (1985) 17 UJ 126

M.R. Sharma, J.—This judgment will dispose of General Sales Tax References Nos. 4 and 5 of 1978 and Civil Writ Petition No. 3095 of 1973.

2. Pursuant to the directions given by this Court in Sales Tax Case No. 7 of 1973, the Presiding Officer of the Sales Tax Tribunal, Punjab, has referred the following question of law to us for our opinion :

Whether a belt pulley attachment was an agricultural implement within the meaning of entry 34 of Schedule B to the Punjab General Sales Tax Act, prior to the amendment made on 15th April, 1971 ?

3. A tractor is generally used by the agriculturists for ploughing their fields. The ploughing operations can be carried on conveniently even when the belt pulley is not attached to a tractor. A belt pulley is attached to a tractor when the latter is required for running a threshing machine or for running a water-pump. Admittedly for the assessment years under consideration agricultura

implements were not exigible to sales tax. A belt pulley, as a matter of fact, increases the utility of a tractor for agricultural operations. We are accordingly of the view that a belt pulley falls within the meaning of an agricultural implement.

4. Mr. Ahluwalia appearing on behalf of the Advocate-General has submitted that for the relevant assessment years a tractor was exigible to tax and since some of the tractors are sold along with a belt pulley, it would create an anomalous position if tax is levied on the sale of a tractor to which a belt pulley is attached and is disallowed to be levied when a belt pulley alone is sold. We see no anomaly in this situation. When some implements are permanently attached or fastened to a tractor, they become part and parcel of it and it is open to the authorities to impose tax on the transaction of sale of the tractor. However, when a belt pulley is sold separately, since the sale is one of an agricultural implement, the authorities concerned are not permitted to levy sales tax on this transaction.

5. Mr. Ahluwalia then drew our attention to entry 34 appearing in Schedule B to the Punjab General Sales Tax Act, 1948 (hereinafter called the Act), which goes to show that agricultural implements of a particular type alone are declared to be tax-free. From this entry, the learned counsel wants us to infer that since the legislature exempted only a class of implements, the other implements which do not fall in this class should be declared as taxable goods. We are not impressed with this argument either. Entry 34 to which Mr. Ahluwalia has made a reference was enacted in the present form on 15th April, 1971, and prior to that all agricultural implements were declared tax-free goods.

6. For the reasons aforementioned, we answer the question referred to us in the affirmative, i. e., against the revenue and in favour of the assessee. The Sales Tax Tribunal shall now dispose of the appeal in accordance with the opinion given by us. No costs.

C.W.P. No. 3095 of 1973.

7. Mr. Ahluwalia has raised a preliminary objection that since the petitioner has not exhausted the remedies available under the Act, we should not grant it any relief in exercise of jurisdiction under Article 226 of the Constitution. Since the Sales Tax Tribunal had earlier given a considered decision adverse to the petitioner, the remedies available under the statute could not be regarded as effective. Since we have come to the conclusion that a belt pulley constitutes an agricultural implement we are not inclined to accept this preliminary objection raised by Mr. Ahluwalia. This petition is accordingly allowed and the assessment order dated 23rd May, 1973, so far as it relates to belt pulley is hereby quashed.