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**(1978) 10 AHC CK 0040**  
**In the Allahabad High Court**  
**Case No : S.T.R. No. 213 of 1978**

Khajan Singh Ashok Kumar

APPELLANT

Vs

Commissioner, Sales Tax

RESPONDENT

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**Date of Decision :** 06-10-1978

**Acts Referred:**

**Citation :** (1979) 43 STC 173

**Hon'ble Judges :** C.S.P. Singh, J

**Bench :** Single Bench

**Advocate :** R.C. Sharma, for the Appellant; The Standing Counsel, for the Respondent

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## Judgement

C.S.P. Singh, J.—The revising authority has referred the following two questions for opinion of this Court:

(1) Whether, under the facts and circumstances of the case, sain and asna wood is timber within the meaning of the word "timber" as mentioned in the notification dated 31st July, 1967 ?

(2) Whether, under the facts and circumstances of the case, the names of trees mentioned in the notification dated 31st July, 1967, are merely illustrative or exhaustive ?

2. The assessee is a dealer in timber, timber products, instruments, etc. Its account books were rejected and an estimate of the turnover was made. The rejection of accounts and the best judgment assessment has been maintained by the Judge (Revisions) with certain modifications. The dispute in the present case is as to whether the wood of sain and asna trees was timber within the meaning of Notification No. ST-4125/X-950(12)-1967. The notification has been issued u/s 3-A of the Act. The relevant part of it is in the following terms :

The turnover in respect of timber, that is to say, the wood of sheesham, teak, sal, sakhu, haldu, tun, mango, jamun, nim, goolar, seems, deodar, chir (pine)

and mahua trees (whether growing or cut), not including its products, shall not be liable to tax except-

(a)...

(b) in the case of the aforesaid goods imported from outside Uttar Pradesh, at the point of sale by the importer ; at the rate of six paise per rupee.

3. The question is as to whether the word "timber" as used in the notification is confined only to the wood of the various varieties of trees mentioned therein or also applies to the wood of other trees, which is used for building purposes. The notification imposes a single point tax and, after referring to the turnover in respect of timber, mentions the wood of a large variety of trees and, while setting them out, begins with the phrase "that is to say". The phrase "that is to say" is used in a notification imposing a single point tax. In the case of State of Tamil Nadu Vs. Pyare Lal Malhotra and Others, , the Supreme Court has held that this phrase, when used in notifications relating to a single point tax, is meant to exhaust the kinds of goods described thereafter. On page 804 (page 324 of 37 S.T.C.) of the Reports, it was observed :

But, in the context of single point sales tax, subject to special conditions when imposed on separate category of specified goods, the expression was apparently meant to exhaustively enumerate the kinds of goods on a given list. The purpose of 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, this listing itself loses all meaning and would be without any purpose behind it.

4. This decision completely resolves the controversy.

5. The first question is answered by saying that sain and asna are not timber within the meaning of the notification. The second question is answered by saying that the trees mentioned in the notification are not merely illustrative but are exhaustive. As the reference has been answered in favour of the department, the department is entitled to its costs, which is assessed at Rs. 200.