(1982) 04 MAD CK 0013

In the Madras High Court

Case No : Tax Case No. 1288 to 1290 of 1977 (Revision No. 293 to 295 of 1977)

M. Kanthilal Bafna APPELLANT

Vs

State of Tamil Nadu RESPONDENT

Date of Decision : 21-04-1982

Acts Referred:

Citation : (1984) 55 STC 213

Hon'ble Judges : S. Padmanabhan, J;N.V. Balasubramanian, J

Bench : Division Bench

Advocate : N. Inbarajan, for the Appellant; K.S. Bakthavatsalam, Additional Government Pleader, for the Respondent

Judgement

Balasubrahmanyan, J.—In this case the short question is whether cast scrap is iron scrap. Outside the law courts, the question has merely to

be stated to be answered in the affirmative. For, just as cast iron is iron, cast iron scrap must be iron scrap. It stands to reasons and common

sense.

2. But the learned Government Pleader argued that cast iron scrap is not iron scrap. He went to the extent of saying that iron scrap excludes cast

iron scrap. The argument arose on a construction of sub-entry (a) of entry 4 of the Second Schedule to the Tamil Nadu General Sales Tax Act,

1959, as it stood before 1st April, 1973. Entry 4 speaks of ""iron and steel goods"" maintaining the broad distinction, as well as the close association

between iron goods and steel goods. At the material time with which we are concerned in this case, sub-entry (a) of entry 4 read as follows :

Pig iron and iron scrap.

3. The expression ""iron scrap"" is used without qualification. ""Pig iron"" may

mean either ""pig iron"" or pig iron scrap. In either case, iron scrap must

include cast iron scrap. Iron is a genus. Cast iron is a species. And there are no words of exclusion which keeps cast iron scrap out of this sub-

entry.

4. But the learned Government Pleader referred to a later day amendment to entry 4. The Government Pleader relied on this amendment as an aid

to the construction of the entry as it stood before. Under the amended entry cast iron scrap gets special mention. According to the Government

Pleader, the express inclusion of cast iron scrap, while entry 4 was subsequently revamped, shows its implied exclusion from the entry as it stood

prior to its recast. The entry was originally enacted in 1959. The amendment came in 1973. Yet this was the argument of the Government Pleader

on legislative intent.

5. We must reject this construction out of hand. Subsequent legislation is not an aid, but a hindrance to statutory construction, especially when the

language is plain to understand. ""Coming events cast their shadow before"" is only an adagial, it is not a canon of construction. It is also a mistake to

suppose that the court is charged with the duty of unearthing legislative intention. The court''s job, on the contrary, is to see what the legislature is

driving at, on a fair understanding of the words employed. What is more while getting at the meaning of such provisions as entries in the Second

Schedule the approach of the court must be more that of a layman, or of a man in the market place, than of a forensic expert. There is no scope for

straining or torturing the meaning of words in the schedule which are either in common parlance or in commercial vogue.

6. When the legislature recast entry 4, it no doubt mentioned by name, cast iron scrap. But the only practical effect of this amendment is that cast

iron scrap need no longer be in doubt as to whether it is a Second Schedule item or not; it can feel quit secure about its place in the entry. That is

all. It is farfetched to imagine that even way back in 1959 when the legislature drew up, for the first time, entry 4 in the Second Schedule, its idea

was to severely exclude cast iron scrap from the entry, and that it kept its thought to itself to let the reader find the inner meaning as best as he may.

7. The assessee''s case in this revision is a cast iron case. We hold that cast iron scrap is, and has always been a Second Schedule item. It is now

openly paraded in entry 4. But even formerly it belonged to that entry although not prominently so.

8. The revision is accordingly allowed with costs. Counsel''s fee Rs. 250 (one set).