
(1958) 08 AP CK 0023

In the Andhra Pradesh High Court

Case No : Tax Revision Case No's. 44, 57 and 58 of 1956

Motilal Hari Prasad and Bros. and Others

APPELLANT

Vs

The State of Andhra

RESPONDENT

Date of Decision : 30-08-1958

Acts Referred:

Citation : (1958) 2 AnWR 699 : (1959) 10 STC 20

Hon'ble Judges : P. Chandra Reddy, C.J.;Kumarayya, J

Bench : Division Bench

Advocate : C. Mallikarjuna Rao and N. Rajeswara Rao, for the Appellant; The Second Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Chandra Reddy, C.J.—The assessee is a dealer in groundnut oil. He purchases groundnut and groundnut kernel and converts them into oil for purposes of sale. In the assessment year 1953-54, he was taxed on Rs. 3,96,772, representing the value of the groundnut kernel purchased by him. This turnover was assessed at the purchase point. The levy was confirmed by the Tribunal. In this revision petition, the assessee attacks the validity of the tax on the ground that groundnut kernel does not fall within the ambit of Rule 4(2)(a) of the Madras General Sales Tax (Turnover and Assessment) Rules, 1939.

2. The concerned rules are as follows:--

4(1) Save as provided in Sub-rule (2) the gross turnover of a dealer for the purposes of these rules shall be the amount for which goods are sold by him.

(2) In the case of the undermentioned goods, the gross turnover of a. dealer for the purposes of these rules shall be the amount for which the goods are bought by him.

(a) groundnut,

(b) cashew, cotton (including kapas) bought by spinning mill or by dealer who

exports outside the State.

3. It is urged that the expression "groundnut" cannot include groundnut kernel and consequently the tax at the purchase point should be confined only to the unshelled nuts. Support is sought for this distinction from rule 18 of the same rules which chooses both the words "groundnut" and "kernel". Rule 18(1) says:

Any dealer who manufactures groundnut oil and cake from groundnut and/or kernel purchased by him may, on application to the assessing authority having jurisdiction over the area in which he carries on his business, be registered as a manufacturer of groundnut oil and cake.

4. It is argued on the basis of this that when the legislature intended to bring in the kernel also, it specified it, and the absence of such word in Rule 4(2)(a) is a pointer to the conclusion that kernel was excluded from the scope of that rule. To substantiate this proposition, reliance is also placed on a judgment of a Division Bench of the Hyderabad High Court in *Kishenlal Oil Mills, Hyderabad v. Commissioner of Sales Tax, Hyderabad* [1955] 6 S.T.C 650. This case, no doubt, lends support to the contention of the petitioner.

5. But Rule 18(1) extracted above has not the effect that is attributed to it. On the other hand, the opposite result flows from it. The very inclusion of the kernel in Rule 18 clearly indicates that groundnut kernel also is taxable at the purchase point under Rule 4(2). If the kernel is excluded from the purview of the definition of "groundnut" to the extent it bears on the kernel, Rule 18(2) would be otiose. We think the very mention of it in that rule gives a clue to the interpretation of the word "groundnut". The expressions "groundnut" and "kernel" are used in Rule 18 only for the purpose of calculating the oil to be extracted from the groundnut and the kernel. The formula to be adopted in estimating the oil to be obtained from crushing the unshelled as well as the shelled nuts is given in the Explanation. That Explanation recites:

For the purpose of this sub-rule--

(a) 143 lb. of groundnut shall be taken to be equivalent to 100 lb. of kernel ;

(b) 143 lb. of groundnut or 100 lb, kernel shall, when converted into oil, be taken to yield 40 lb, of oil; and

(c) one candy of oil shall be taken to be equivalent to 500 lb. of oil,

6. This Explanation shows the object of the reference to kernel in Rule 18(2). In our opinion, the fact that the word kernel also is contained in that rule gives an indication that the legislature had in mind groundnut kernel as well in enacting Rule 4(2). To confine the meaning of the word "groundnut" to the unshelled nuts is to deprive the expression of its full content. We feel that there is no warrant for putting a restricted interpretation on that word. In our opinion, this word is of wide amplitude so as to embrace within its compass the kernel also. The mere fact that the nut is shelled and is converted into kernel cannot take it out of the

purview of the definition of groundnut. The groundnut is purchased only for its content, namely, the kernel. We are unable to discover any intelligent differentia between the groundnut and the kernel for the purpose of Rule 4(2).

7. The further argument to be noticed in this context is that since there is ambiguity about the meaning of the expression, it should be construed in a way favourable to the taxpayer so as not to throw an unnecessary burden on him. To substantiate this proposition, a passage from "Maxwell on the Interpretation of Statutes" (Tenth Edition) at page 288 is called in aid. The passage runs thus:

Statutes which impose pecuniary burdens" also, are subject to the same rule of strict construction. It is well-settled rule of law that all charges upon the subject must be imposed by clear and unambiguous language, because in some degree they operate as penalties. The subject is not to be taxed unless the language of the statute clearly imposes the obligation.

In a Taxing Act one has to look merely at what is clearly said. There is no room 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 used. A construction for example, which would have the effect of making a person liable to pay the same tax twice in respect of the same subject-matter would not be adopted unless the words were very clear and precise to that effect. In a case of reasonable doubt the construction most beneficial to the subject is to be adopted.

8. No exception can be taken to the proposition as enunciated in this passage, and in the event of there being a doubt, that should be resolved in favour of the subject. But this cannot be extended to cases where the words are reasonably capable of only one meaning and they are unequivocal. That principle would govern only when the words are susceptible of two meanings. In this context, we may refer to another passage in the same book at page 291 which reads thus:

At the same time, such Acts, like penal Acts, are not to be so construed as to furnish a chance of escape and a means of evasion.

* * * * Indeed, as in criminal statutes, the widest meaning is given to the language when necessary to effectuate the intention of the legislature.

9. In such a situation, the proper construction of the word "groundnut" is the one which we have given above, having regard to the context in which it is used and the object and the scheme of the rules. The other interpretation sought to be based on it would involve a strained and an unnatural meaning.

10. It was next urged that wherever the legislature had intended to include certain articles, it had specifically stated so, as for instance, with reference to "cotton", the expression "including kapas" is used in contradistinction to "groundnut". We do not think that any assistance can be got by contrasting the word "groundnut" with the clause "cotton (including kapas) bought by spinning mill or by dealer". The inclusive definition of cotton as including kapas cannot

really throw any light on the interpretation of the word "groundnut" for, in the former case, cotton cannot, by any stretch of imagination, comprise kapas, which is a generic term. No help can, therefore, be derived from comparing the Sub-clauses (a) and (b) of Rule 4 (2).

11. We will next turn our attention to the judgment of the Hyderabad High Court in *Kishenlal Oil Mills, Hyderabad v. Commissioner of Sales Tax, Hyderabad* [1955] 6 S.T.C. 650, called in aid by the learned counsel for the petitioner. It was there laid down that the word "groundnut" occurring in Sub-rule (2) of Rule 5 of the Hyderabad General Sales Tax Rules should be interpreted to mean unshelled groundnut produced by the agriculturist and not the kernel. The learned Judges thought that this conclusion followed from a Full Bench decision of the Hyderabad High Court in *Konduri Buchi Rajalingam v. The State of Hyderabad* [1954] 5 S.T.C. 401. In this Full Bench case, it was held by the majority that no exemption was granted to growers of agricultural produce and that the argument that the first sales of agriculturists were exempt was not at all warranted. We are unable to see how the Full Bench ruling supports the principle laid down in *Kishenlal Oil Mills, Hyderabad v. Commissioner of Sales Tax, Hyderabad* [1955] 6 S.T.C. 650. The question before the Full Bench was not whether the word "groundnut" included kernel. The learned Judges seem to have been influenced by a consideration that the rule was confined to the levy of tax on the purchase turnover on the agricultural produce or raw commodities, such as hides and skins. Even in that premises, we do not see how the kernel ceases to be an agricultural produce. Its character is not changed by merely shelling the nut. The learned Judges were also influenced by the fact that the Travancore State has in Rule 4(2) of the Travancore-Cochin General Sales Tax Rules, 1950, clearly specified groundnut and its kernel, cashew and its kernel, coconut and copra as being liable to tax on the purchase turnover of the dealer. They thought that the absence of the word "kernel" in the rules in question was an indication of the intention of the legislature to eschew kernel from the operation of Rule 4 (2)(a). We express our respectful dissent from this decision, as we are unable to subscribe to the theory propounded therein.

12. Our opinion is in accord with a ruling of a Division Bench of this Court in *Motilal Hari Prasad vs. State of Andhra* [1955] 6 S T.C. 654. It was ruled by Subba Rao, C.J., (as he then was) who spoke for the Court, that Rule 4 (2)(a) of the Madras General Sales Tax (Turnover and Assessment) Rules, 1939, applied to groundnut kernel equally, inasmuch as the word "groundnut" was a comprehensive term which took in kernel. The learned Judges who decided the above case considered the various aspects of the matter and reached the conclusion set out above. To the same effect is the decision of the Madras High Court in *Radhakrishna Groundnut Oil Mills v. State of Madras* [1954] 5 S T.C. 357. On this discussion, it follows that the contention of the counsel for the petitioner that the groundnut kernel is not liable to be taxed at the purchase point has to be rejected.

13. There remains the question whether charity and cooly collected by the dealer falls within the ambit of Rule 5(1)(g) of the same rules. Counsel for the petitioner conceded that the relevant rule is not attracted to the charity, having regard to the decided cases of the various High Courts. He, however, presses the point that cooly need not be comprised in the turnover, as it falls directly under Rule 5, Clause (g), Sub-clause (ii). We are unable to accede to this contention. Charges for packing and delivery and other such like services contemplated by Sub-rule (ii) have relation only to those expenses incurred in connection with the delivery of the article sold and have no reference to expenses incurred prior to the article reaching the place of business of the dealer. It is conceded by Shri Mallikharjuna Rao that the cooly in dispute was paid by his clients for the purpose of having the goods transported to the place of business. Such being the case, it is difficult to extend the benefit of Clause (g), Sub-clause (ii), to cases of this description. Therefore, this submission also fails and is rejected. No other point is argued before us.

14. In the result, this revision case is dismissed with costs. This decision applies to T.R.C. Nos. 57 of 1956 and 58 of 1956 and they are also dismissed with costs. Advocate's fee is fixed at Rs. 200 in each of the cases.