

(2013) 03 KL CK 0048

In the High Court Of Kerala

Case No : W.A. No. 116 of 2013 and connected cases

Nelkadir Bone Industries

APPELLANT

Vs

Commercial Tax Officer

RESPONDENT

Date of Decision : 26-03-2013

Acts Referred:

Constitution of India, 1950 — Article 14
Kerala General Sales Tax Act, 1963 — Section 10

Citation : (2013) 2 ILR (Ker) 813 : (2013) 2 KLJ 702 : (2013) 2 KLT 477

Hon'ble Judges : K.M. Joseph, J;K. Ramakrishnan, J

Bench : Division Bench

Advocate : S.K. Devi and M. Raj Mohan, for the Appellant; Bobby John Pulikkaparambil), for the Respondent

Judgement

K. Ramakrishnan, J.—The above appeals were filed by the respective appellants against the common order passed by the learned Single Judge in W.P. (C). Nos. 21143/2007, 18609/2008, 1737/2009 and 4332/2009. In all these cases, the appellants/petitioners in the Writ Petition are manufacturers of bone meal. During the assessment years, 2003-2004 and 2004-2005, petitioners filed returns claiming exemption from tax on the ground that bone meal is included in Item 17 of third schedule to Kerala General Sales Tax Act (herein after called "KGST Act"). The claim of the petitioners was rejected and assessment against the petitioners was made on the basis of Ext. P1 and P2 orders, levying tax at the rate of 4%, on the basis that bone meal is included in Item 57(V) of first Schedule of K.G.S.T. Act. Aggrieved by the same, the petitioners filed the Writ Petition seeking a declaration that exclusion of bone meal from organic manure under Entry 17 of the third Schedule to the K.G.S.T. Act and, the inclusion of it under Entry 57(V) of the first schedule as fertilizers under the group of inorganic manure is repugnant to Art. 14 of the Constitution of India.

ii) to issue a writ of mandamus to the respondents to classify "bone meal" under Entry 17 of the third schedule to the Act.

iii) to issue writ of certiorari to quash Ext. P1 and P2 orders to the extent it denies exemption to the turnover of the bone meal".

2. The learned single Judge, after considering the contentions and relying on the precedents on this aspect, came to the conclusion that there is no arbitrariness in including bone meal in Entry 57(V) of first schedule of the K.G.S.T. Act and, it cannot be treated as organic manure as mentioned in Entry 17 of the third schedule and found that there is reasonable classification made by the legislature in including bone meal under fertilizer in first schedule and there is no arbitrariness and found that the petitioners are not entitled to get the declaration as prayed for including the consequential reliefs and dismissed the Writ Petitions by the common impugned judgment. Aggrieved by the same, the present appeals have been preferred by the appellants/petitioners in the Writ Petitions.

3. Since, common question arises in all these cases for consideration, namely, the constitutional validity of the inclusion of bone meal in Entry 57(V) of the first schedule to the K.G.S.T. Act, instead of including the same in Entry 17 of the third schedule and denying exemption to the same under the category of organic manure, and declaring the same as unconstitutional, all these appeals were taken together for disposal.

4. The common question which arises in all these cases, is whether the legislature was justified in including bone meal, under the head fertilizer in Entry 57(V) of the first schedule of the K.G.S.T. Act, instead of showing the same as organic manure in Entry 17 of third schedule of K.G.S.T. Act, and whether it is arbitrary and unreasonable and liable to be declared as organic manure entitled for exemption.

5. The counsel for the petitioners, in all these cases argued that the assessing authority as well as the learned single Judge had not considered the true perspective of the arguments advanced in favour of the petitioners, and both the learned single Judge and the assessing authority had misunderstood that the manufacture of bone meal involves manufacturing process, whereas organic manure does not involve any manufacturing process and as such there is reasonableness in the classification made, including bone meal under first schedule instead of in the third schedule and the precedents on this aspect have not been considered properly. Further, it will be seen from the subsequent notification that neem cake and crushed neem fruit were included as organic manure in Entry 17 of third schedule, granting exemption to those articles, which also involves manufacturing process. So the legislature was not justified in excluding bone meal under the head organic manure in third schedule, denying exemption for the same and it is discriminatory. In fact, the Hon'ble Supreme Court has held that if, the articles are of same category, and if there is no nexus between the exemption and the article exempted, when compared to other articles of similar nature, then non inclusion of similar category in that entry is unreasonable and that benefit must be given to those articles as well. These aspects were not considered by the learned single Judge before coming to the

conclusion that the petitioners are not entitled to get the exemption as prayed for, it is submitted.

6. On the other hand, learned Government Pleader argued that petitioners are not entitled to claim exemption as of right, as it is the domain of the legislature in deciding the question, as to which article has to be given exemption and the wisdom of legislature on that aspect cannot be questioned, unless it is arbitrary and without any reasons, and discriminatory. In this case, organic manure not included in the first schedule alone were given exemption in Entry 17 of Third Schedule of the Act and bone meal was included as fertilizer in Entry 57(V) of the first schedule of the Act. So, when legislature had excluded certain articles from exemption, then that cannot be claimed by the petitioners as of right. Further neem cake and crushed neem fruit are bye-products obtained by using neem leaves and from neem fruit which is a product directly obtained from plant. When compared to bone meal, its commercial importance is also less and in order to promote sale of such articles, Government would have thought of giving exemption to such articles and that cannot be said to be arbitrary or unreasonable and so the learned single Judge was perfectly justified in rejecting the claim of the petitioners and that does not call for any interference.

7. For the purpose of understanding these aspects, the articles included in first schedule under Entry 57 has to be enumerated.

Entry 57 of the first schedule:

- i. Ammonium Chloride
- ii. Ammonium phosphate sulphate of any description
- iii. Ammonium Sulphate
- iv. Ammonium Sulphate nitrate
- v. Bone meals
- vi. Chilian nitrate
- vii. Calcium ammonium
- viii. Calcium carbonate
- ix. Di-Ammonium phosphate
- x. Di-Calcium phosphate
- xi. Fused Calcium magnesium phosphate
- xii. Kotka phosphate
- xiii. Mossori phosphate
- xiv. Mono ammonium phosphate

- xv. Nitra phosphate of any description
- xvi. N.P.K. Complex of various grades
- xvii. Potassium Chloride (Muriate of Potash)
- xviii. Rock Phosphate
- xix. Sodium Nitrate
- xx. Sulphate of potash
- xxi. Super phosphate single
- xxii. Super phosphate triple
- xxiii. Ultraphose
- xxiv. Urea
- xxv. Urea ammonium phosphate
- xxvi. Any mixture of one or more of the articles mentioned in items (i) to (xxv) above, with or without the addition of other articles (on the turnover relating to components thereof which have not already suffered tax)

Similarly Entry 17 of third schedule, has to be extracted, which reads as follows:

Entry 17 of the Third Schedule: Cow dung, wood ash, poultry manure, Green manure, compost, Town compost, Fish manure and Organic manure (including neem cake and crushed neem fruit) other than those specifically mentioned in the first schedule.

Explanation: The term "Organic Manure" referred to in this entry shall mean only the manure produced or derived naturally from plants or animals or from both.

8. Before going to the facts of the case, we may consider the precedents of this aspect, relied on by both the parties. In the decision reported in Marico Industries Ltd. Vs. State of Karnataka and Others, , it has been held that introduction of entry imposing higher rate of tax on branded coconut oil than on other edible oils sold under brand name on par with other toilet articles was held to be discriminatory as the coconut oil so sold does not change the characteristics of edible oil. In the decision reported in The State of Tamil Nadu Vs. Subbaraj and Co., , it has been held that sale locally of bone grists, bone-meal, fluff horns and hoof obtained in that process does not change the identity of the article completely and so long as the identity of the goods remained, the goods purchased and used in the manufacture of some other goods cannot said to have been consumed in the process of manufacture of other goods for the purpose of grouping them under the entry of higher tax, and that is not proper. This view has been upheld by the Hon''ble Supreme Court in the decision reported in A.A. Sulaiman Vs. Dy. Commissioner of Sales Tax, and the same view has been reiterated in Deputy Commissioner of Sales Tax (Law), Board of

Revenue (Taxes), Ernakulam Vs. Pio Food Packers, : Deputy Commissioner of Sales Tax (Law), Board of Revenue (Taxes), Ernakulam Vs. Pio Food Packers, . The same view has been reiterated in the decisions reported in State of Maharashtra Vs. Mahalaxmi Stores, : State of Maharashtra Vs. Mahalaxmi Stores, and Suresh Kumar Vs. State of Kerala, - Suresh Kumar Vs. State of Kerala, . In the decision reported in Swapna Bone Meal Co. Pvt. Ltd. Vs. District Level Committee for Sales Tax Exemption and Others, , this Court held that no manufacturing process is involved in conversion of raw bone into bone meal. In the decision reported in Deputy Commissioner of Sales Tax (Law) Vs. Pio Food Packers, , it has been held that slicing of pineapple into piece does not amount to manufacture and this view has been upheld by the Hon"ble Apex Court in the decision reported in Dy. Commissioner of Sales Tax, Ernakulam v. Pio Food Packers (supra). Further in the decision reported in Suresh Kumar Vs. State of Kerala, , Full Bench of this Court held that crushing of tamarind seed into tamarind powder does not amount to manufacture. Further in the decision reported in State of Maharashtra Vs. Mahalaxmi Stores, : State of Maharashtra Vs. Mahalaxmi Stores, , the Hon"ble Apex Court has held that crushing of big size stones (boulders) into small size will not result in manufacture.

9. Further in the decision reported in Ayurveda Pharmacy and Another Vs. State of Tamil Nadu, , the Hon"ble Supreme Court has held that excluding certain arishtams and asavas of ayurvedic medicinal preparations from other medicinal preparations only on the ground that it contains higher alcoholic content and put to different tax liability was unconstitutional. It may be mentioned here that in all these cases, articles which were similarly placed in common parlance understood by the people as one category were differentially placed by the legislature for the purposes of imposing different rate of tax and under these circumstances, the courts held that there is no nexus between the tax imposed and the article subject to tax and the classification made is arbitrary and held unconstitutional. The fact in issue involved in this case is different from the facts of the cases mentioned above.

10. In the decision reported in R.K. Garg and Others Vs. Union of India (UOI) and Others, , R.K. Karanjia v. Union of India, Madhu Mehta & Anr., v. Union of India & Anr., P.K. Soi v. Union of India), it has been observed as follows:-

Every legislation particularly in "economic matters is essentially empiric and it is based on experimentation. There may be crudities, inequities and even possibilities of abuse but on that account alone it cannot be struck down as invalid. These can always be set right by the legislature by passing amendments. The Court must therefore adjudge the constitutionality of such legislation by the generality of its provisions. Laws relating to economic activities should be viewed with greater latitude than laws touching civil rights such as freedom of speech, religion etc.

Moreover, there is always a presumption in favour of the constitutionality of a statute and the burden is upon him who attacks it to show that there has been a

clear transgression of the constitutional principles. The legislature understands and correctly appreciates the needs of its own people, its laws are directed to problems made manifest by experience and its discrimination are based on adequate grounds. In adjudging constitutionality the Court may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be conceived existing at the time of legislation.

Further, immorality by itself cannot be a ground of constitutional challenge. There may be cases where the provisions of a statute may be so reeking with immorality that the legislation can be readily condemned as arbitrary or irrational and hence violative of Art. 14. But the test in every such case would be not whether the provisions of the statute offend against morality but whether they are arbitrary and irrational having regard to all the facts and circumstances of the case. Morality is essentially a subjective value, except insofar as it may be reflected in any provision of the Constitution or may have crystallised into some well-accepted norm of social behaviour.

Lastly, the Court must while examining the constitutional validity of a legislation in economic matters "be resilient, not rigid, forward looking, not static, liberal, not verbal". It must defer to legislative judgment in matters relating to social and economic policies and must not interfere, unless the exercise of legislative judgment appears to be palpably arbitrary. It would be outside the province of the Court to consider if any particular immunity or exemption is necessary or not for the purpose of inducing disclosure of black money. The trial and error method is inherent in every legislative effort to deal with an obstinate social or economic issue and if it is found that any immunity or exemption granted under the Act is being utilised for tax evasion or avoidance not intended by the legislature, the Act can always be amended and the abuse terminated".

It is clear from the above dictum that merely because it causes some hardship to some or it is immoral by itself cannot be a ground of constitutional challenge.

11. In the decision reported in *M. Rathinaswami and Others etc. Vs. State of Tamil Nadu and Others etc.*, , it has been held that it is for the Government to decide whether qualifications have a reasonable relation to the nature of duties and responsibilities of a permanent post. Court being not an expert in administrative matters is not to sit in appeal over the decisions of executive authorities, unless they are arbitrary and shocking. It is also held in the same decision that court should make every effort to save the statute from becoming unconstitutional. A restricted or extended interpretation of the statute has to be given to save a statutory provision from the vice of unconstitutionality. Of available interpretations, court is to prefer the one which makes the statute constitutional.

12. In the decision reported in *Kerala Hotel and Restaurant Association and others Vs. State of Kerala and others*, . It has been observed as follows:

It is settled that classification founded on intelligible differentia is permitted, provided the classification made has a rational nexus with the object sought to be achieved. In other words:

Those grouped together must possess a common characteristics justifying their inclusion in the group, but distinguishing from those excluded, and the performance of this exercise must bear a rational nexus with the reason for the exercise. The scope for classification permitted in a taxation is greater and unless the classification made can be termed to be palpably arbitrary, it must be left to the legislative wisdom to choose the yardstick for classification in the background of the fiscal policy of the State to promote economic equality as well. It cannot be doubted that if the classification is made with the object of taxing only the economically stronger while leaving out economically weaker sections of society, that must be a good reason to uphold the classification, if it does not otherwise offend any of the accepted norms of valid classification under equality classes. Indeed, the test applicable for striking down a taxing provision on the ground of discrimination is one palpable arbitrariness applied in the context of the felt needs of the times and the societal exigencies informed by experience and the courts should not interfere with legislative wisdom of making the classification unless the classification is found to be invalid by the aforesaid tests.

13. In the decision reported in *Income Tax Officer, Shillong and Others Vs. R. Takin Roy Rymbai and Others*, , it has been held that the mere fact that a tax falls more heavily on some in the same category is not by itself a ground to render the law invalid. It is only when within the range of its selection, the law operates unequally and cannot be justified on the basis of valid classification that there would be a violation of Art. 14.

14. In the decision reported in *Budhan Choudhry and Others Vs. The State of Bihar*, : *Budhan Choudhry and Others Vs. The State of Bihar*, , it has been observed as follows:

Every taxing legislation makes a genuine attempt to adjust the burden with a fair and reasonable degree of equality. It also aims to apportion the burden equitably on different categories of properties or persons with distinct economic characteristics. It is impossible in the nature of things to aim at absolute equality in the matter of taxation. The State resorts to the principle of classification in an attempt to harmonise the doctrine of equality with differences inherent in the categories of properties or persons assessed. The articles sold, the place where the business is carried on and the expectation of large profits are the characteristics of dealers who are distinct from dealers not covered by the proviso.

15. In the decision reported in *The Associated Cement Companies Ltd. Vs. Government of Andhra Pradesh and Another*, , it has been held that legislature be given much more flexibility in devising the measure of taxation for quantification of tax. That was a case where the State of Andhra Pradesh by virtue of

amendment made classification of cement sold in two Categories and imposed tax at different rate namely (1) where the sale price of cement includes the value of packing material and (2) if the cement is sold alone with separate sale of packing material for a separate price in different categories, and this was held to be valid and not violative of Art. 14 of the Constitution of India. In this case, the dictum laid down in the decision reported in *Ayurveda Pharmacy and Another Vs. State of Tamil Nadu*, , was also considered and distinguished.

16. In the decision reported in *State of Assam and Others Vs. Shri Naresh Chandra Ghose (D) By Lrs.*, : *State of Assam and Others Vs. Shri Naresh Chandra Ghose (D) By Lrs.*, , the Constitutional validity of including Ayurvedic, Homeopathic and Unani medicines and spirituous medicinal preparations under any pharmacopoeia in different classification was questioned and it was held that the classification is valid. In the decision it has been held that an analysis of Entries 28 and 67 of Schedule-II of Assam Finance (Sale Tax) Act 1956, clearly shows that generally all Ayurvedic, Homeopathic and Unani medicines are exempt from the levy of sales tax. However, this exemption is not available to a specific class of medicinal preparations including allopathic, ayurvedic, homeopathic and unani medicines, if it contains 12% by volume of alcohol. Such a classification cannot be construed as arbitrary classification. The classification based on alcohol content of a medicinal preparation is not confined to ayurvedic, homeo or unani medicine alone. But it encompasses whole spirituous medicinal preparations which are prepared under any pharmacopoeia and contain more than 12% by volume of alcohol. Therefore, the legislature or its delegate has not made any arbitrary classification for the purpose of levy. This classification being based on intelligible differentia is a valid classification. The legislature has wide discretion in selecting persons or objects it wants to tax. A statute cannot be challenged on the ground that it levies tax on one class of articles and not on others. The dictum laid down in the decision reported in (1989) 73 STC 346 (*Arya Vaidya Pharmacy & Anr. v. State of Tamil Nadu*) was distinguished in this case. Same view has been reiterated in the decision reported in *The Twyford Tea Co. Ltd. and Another Vs. The State of Kerala and Another*, , *National Coal Development Corporation Ltd. Vs. Manmohan Mathur*, , *Ganga Sugar Corporation Ltd. and Others Vs. State of Uttar Pradesh and Others*, , *Federation of Hotel and Restaurant Association of India, etc., Vs. Union of India (UOI) and Others*, , *Elel Hotels and Investments Limited and Others Vs. Union of India*, .

17. In the decision reported in *Pali Chemical Industries Vs. The Additional Commissioner of Commercial Taxes, Zone-I and Another*, : (2008) 11 VST 926 (Kar.) (*Pali Chemical Industries v. Additional Commissioner of Commercial Taxes, Bangalore & Anr.*), the question as to different type of taxes and including in different schedules for chemical fertilizers and chemical fertilizer mixtures were considered and in that decision, it has been held that the expressions in an exemption notification should be understood by the language employed therein and the benefit of the notification can be extended to a dealer if he falls squarely within the four corners of the notification. Entry 11 of Second Schedule of

Karnataka Sales Tax Act exempt chemical fertilizers simpliciter and not a mixture of two or more chemical fertilizers, though, both fall under the category fertilizer. In that case, bone meal was brought under the category of chemical fertilizer, and in that case mixture of organic manure with any one of the other chemical fertilizers was held to be a chemical fertilizer mixture. So it is clear from this that the legislature was very careful in using the word fertilizer and organic manure in different meaning giving them different status for the purpose of taxation. The decision was rendered by relying on the decisions reported in *Shaw Wallace and Co. Ltd. Vs. State of Karnataka*, and *Shaw Wallace and Co. Ltd. Vs. The State of Tamil Nadu*, .

18. In the decision reported in *Coastal Food Packers Vs. The State of Kerala*, , it has been held that prawns even if sold in a sealed container ready for table will not lose its character as prawns and make it food stuff for the purpose of taxation at two different rates. In the same decision, it has been held that when a statute contains a general word and also a particular and specific word to describe a thing, the latter should exclude the former. The expression "Prawns" has a special popular meaning and it cannot, without straining the language, be included in the expression "food stuff".

19. In the decision reported in *Deputy Commissioner of Commercial Taxes Vs. K. Sowrirajan*, , the question which arose for consideration was whether any mixture of one or more of the articles mentioned in Item 1 to 15 of Entry 21 and one or more of the organic manures is a chemical fertilizer falling under Entry 21 or not, and the High Court held that it will fall under Item 21 of the first schedule under the head chemical fertilizers. Here also, bone meal was shown independently as a chemical fertilizer and organic manure was specifically mentioned and that shows that bone meal and organic manure were kept in two different classes for the purpose of taxation. The same view has been reiterated in the decision reported in *The State of Tamil Nadu Vs. Rallis India Ltd.*, There also bone meal was included under the head chemical fertilizer and organic manure was differently mentioned. The same principle was followed in the decision reported in (2000) 119 STC 99 . In the decision reported in *Shaw Wallace and Company Ltd. v. State of Tamil Nadu (supra)*, it has been held that chemical mixtures prepared by mixing different chemical fertilizers will not get tax exemption.

20. From the above decisions, it is clear that legislature has got power to place different items under different classification for the purpose of taxation and unless that classification is found to be unreasonable and has no nexus between the article and the exemption granted and it is discriminatory and violative of Art. 14, it cannot be struck down by courts. It is also settled law that while considering the constitutional validity of a provision, court must always be careful to see that the section or provision is made constitutional instead of striking down the same and as far as possible harmonious construction must be made for making the provision valid, unless it is impossible for the court to adopt such a

procedure to give validation to such a provision.

21. Further while interpreting a statute, purposive construction must be made and Rules of interpretation require that the construction which carries forward the objectives of the Statute protects, interest of parties and keep the remedy alive should be preferred. Looking into the text and context of the Statute, Court must take a pragmatic view and must keep in mind the purpose for which the Statute was enacted. *State of Gujarat and Another Vs. Hon'ble Mr. Justice R.A. Mehta (Retd.) and Others*,). While interpreting taxing statutes, it must be strictly interpreted, making the construction to give effect to the intention of the legislature. [See *Catholic Syrian Bank Ltd. Vs. Commissioner of Income Tax, Thrissur*,].

22. With these principles in mind, the case in hand has to be considered. The question to be considered in this case is whether the legislature was justified in including bone meal, though by applying the grammatical meaning of organic manure, it may fall under that category, in the category of fertilizers, under Entry 57(V) of Schedule 1, and deny exemption under Entry 17 of third schedule is justifiable and whether it is arbitrary and against Art. 14 of the Constitution and liable to be declared as an organic manure to give exemption under Entry 17 of third schedule of the Act. It is true, that by applying the explanation of organic manure provided under Entry 17 of third schedule, it may appear that bone meal also will fall under the category of organic manure. It will be seen from the user of the bone meal as a fertilizer in the common parlance, it acquired commercial importance and stands at par with other chemical fertilizers enumerated under that category, under Entry 57(V) of first schedule, as it is rich in phosphorus and easily used as fertilizers like, chemical fertilizers in the agricultural operation. Further, bone meal has acquired commercial importance and it is being sold at large scale when compared to organic manure enumerated under Entry 17 of schedule 3 of the Act. Though, fertilizer and manure are having semblance and known as fertilizers in the common parlance, it has got some difference, when it is used in the commercial field. Fertilizers are manures produced on large scale on commercial basis, getting more income and profit when compared to organic manure enumerated in Entry 17 of third schedule and that may be the reason why legislature was careful enough to use the words fertilizer and manure in the statute to treat them in different category for a reasonable classification, for the purpose of taxation. Organic manure enumerated in Entry 17 has not acquired so much commercial importance in the field of agriculture and in the commercial field, as that of bone meal. That may be the reason why the legislature would have thought of including bone meal under the Entry 57(V) of first schedule at par with other chemical fertilizers. Further, the organic manure enumerated in Entry 17 of third schedule are the crude form of manure obtained in a natural manner with less manufacturing technique, and used as such in the agricultural operation. Further, the produce of organic manure has not attained large scale production in the fertilizer industry and profit earning as that of bone meal. So in order to give priority and to promote use of organic manure enumerated in Entry

17 of third schedule in agricultural operation and to reduce the use of chemical fertilizers, and attract more persons to manufacture organic manure, the legislature might have thought of giving exemption to organic manure enumerated in Entry 17 of third schedule. Further neem cake and crushed neem fruit also has not acquired that much commercial importance as that of bone meal in the commercial field. So including neem cake and crushed neem fruit, which may be obtained by making some manufacture operation, it cannot be said that it is discriminatory or unreasonable classification as contended by the counsel for the appellants. So considering the background discussed above, it cannot be said that including bone meal at par with chemical fertilizers and included in Entry 57(V) of first schedule and not treating it as organic manure as contemplated in Entry 17 of third schedule of the Act, cannot be said to be either unreasonable, arbitrary or unjust classification, or discriminatory so as to make the discretion unconstitutional under Art. 14 of the Constitution of India. Under S. 10 of the K.G.S.T. Act, State has got power to grant exemption to certain articles to promote its use or encourage manufacture of those articles, and provide benefit to some class of persons dealing with those articles. So granting exemption to such articles cannot be said to be beyond the jurisdiction of the legislative competence of the State. If, the discretion has been used by the legislature in making the classification which is not arbitrary, unreasonable or discriminatory under Art. 14 of the Constitution, then court should not invoke judicial review to strike down such exemption or extend the exemption to certain class of Articles, though, they have some semblance of the Article exempted but standing in a different footing in the commercial field. So under the circumstances, the learned single Judge was perfectly justified in coming to the conclusion that classification made excluding bone meal in the category of exempted articles is perfectly justifiable, and it is not unconstitutional and as such the petitioners are not entitled to get the declaration prayed for, and also the consequential relief of quashing the assessment orders of the assessing authority and rightly dismissed the Writ Petitions. We did not find any reason to interfere with the finding of the learned single Judge and the Writ Appeals lack merit and the same are liable to be dismissed.

In the result, the Writ Appeals are dismissed.