(1989) 08 P&H CK 0154

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 2122 of 1989

Panipat Co-operative Sugar Mills Ltd. APPELLANT

Vs

Haryana State Board for the Prevention and Control of Water Pollution and Others RESPONDENT

Date of Decision : 25-08-1989

Acts Referred:
Constitution of India, 1950 — Article 226, 227
Water (Prevention and Control of Pollution) Cess Act, 1977 — Section 3

Citation : (1990) CivCC 404 : (1990) 1 ILR (P&H) 474 : (1990) 98 PLR 130

Hon'ble Judges : I.S. Tiwana, J;Amarjeet Chaudhary, J

Bench : Division Bench

Advocate : R.L Batta, G.C. Tangri and S.K. Pabbi, for the Appellant; S.C. Mohunta and A. Mohunta, for the Respondent

Final Decision : Dismissed

Judgement

I.S. Tiwana, J.—The short but common question of some significance involved in these five writ petitions Nos. 2122, 2635, 8591 and 8231 of 1989 and 7139 of 1987, is as to whether the sugar/alcohol industry is covered by entry No. 15 of Schedule I to Central Act No. 36 of 1977, i.e., Water (Prevention and Control of Pollution) Cess Act, 1977. In view of the pristinely legal nature of the question it is hardly necessary to advert to any facts except to record that the petitioners manufacture sugar/molasses from sugarcane. All that is necessary to notice is the relevant provisions of the statute which are as follows :--

"3. Levy and collection of Cess.

(1) There shall be levied and collected a cess for the purposes of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) and utilisation thereunder.

(2) The cess under Sub-section (1) shall be payable by-

(a) every person carrying on any specified industry; and

XX XX XX

Specified industry'' is defined as per section 2(c) to mean :--

"Any industry specified in Schedule I"

Entry NO. 15 of this Schedule reads :--

"Processing of animal or vegetable products industry."

2. Though my straight and forthright answer to the question posed above is that sugar industry is covered by this entry, yet it is urged by Mr. Batta. learned counsel for the petitioners in the light of the Supreme Court judgments in Ramavatar Budhaiprasad Etc. Vs. Assistant Sales Tax Officer, Akola, Motipur Zamindary Co. (P) Ltd. Vs. The State of Bihar, , , Mangulu Sahu Ramahari Sahu Vs. The Sales Tax Officer, Ganjam, and State of West Bengal and Others Vs. Washi Ahmed and Others, that sugarcane by no stretch of imagination can be held to be "vegstable". He may be right and in fact he is that sugarcane is not "vegetable", but does it mean that it is not even a vegetable product ? Herein we are concerned with vegetable products industry and not vegetable industry. The "vegetable products" essentially mean what belongs to the plant kingdom as opposed to the animal kingdom. In other words, the word "vegetable" has been used in contradiction to the "animal". As per Webster''s Third New International Disctionary, the word "vegetable" means anything living or growing in the manner of simple living things (as plants). As per this dictionary, the word "animal" means any member of the group of living beings typically capable of spontaneous movement and rapid motor response to stimulation (by external or internal agents) as distinguished from a plant......... As one or more of these attributes may be entirely wanting in some animals, and present in some plants, the various characters of an organism must be taken collectively into account in classing it as an animal or a plant. In the very nature of things the Parliament could not specifically and separately, mention each and every industry which leads to pollution of water. It had essentially to resort to and has specified, if I may say so, only the species or types of industries whose activities normally lead to pollution of water The fallacy in Mr. Batta''s argument is that he wants to read the word ''vegetable'' disjunctively, i.e. , in isolation and without reference to products. As a matter of fact it has to be read in conjunction with that word. The elementary principle of interpretation of statutes is that no word occurring therein has to be ignored or obliterated. The entry is not processing of animal or vegetable industry. Can these be called industries at all ? The word "products" gives a definite colour and meaning to the word "vegetable" meaning thereby all that belongs to the world of plants. The age-old classification of living thing into animal kingdom and vegetable/plant kingdom is well known. In the light of this analysis of mine, the above noted judgments of the Supreme Court are of no help to Mr Batta. it is not his case that sugarcane is not a plant even, A Divison Bench of the Allahbad High Court in Kishan Sakari Chini Mills Ltd. v. State of Uttar Pradesh and Ors.,5 while interpreting this entry has recorded a similar

conclusion but for different reasons.

3. At one stage it was sought to be urged by Mr Batta that though sugar is manufactured from sugarcane, yet there being a difference in the meaning and connotation of manufacturing and processing, the petitioner mills would not be ccered by this entry. I, however, see no merit in this submission of the learned counsel as to my mind, manufacturing is also one of the processes of producing sugar. It is more so in the context in which the word "processing'''' has been used in this entry.

4. No other point has been urged before us.

5. For the reasons recorded above, we find no merit in these petitions and the same are dismissed but with no order as to costs.

