
(1967) 07 MAD CK 0025

In the Madras High Court

Case No : Tax Case No. 230 of 1964 (Revision 156)

S. Kannappa Mudaliar

APPELLANT

Vs

State of Madras

RESPONDENT

Date of Decision : 21-07-1967

Acts Referred:

Central Sales Tax Act, 1956 — Section 14

Citation : AIR 1968 Mad 329 : (1968) 1 MLJ 6 : (1968) 21 STC 41

Hon'ble Judges : Veeraswami, J; Ramaprasada Rao, J

Bench : Division Bench

Judgement

Ramaprasada Rao, J.

(1) The only question involved in this tax revision case is whether cocoanuts are classifiable under oil-seeds within the meaning of Item 6(a) of the

Second Schedule to the Madras General Sales Tax Act, 1959. The petitioner who was a dealer in dehisced cocoanuts is disputing the eligibility to

tax on a turnover of Rs. 1,74,013.90. The assessee was unsuccessful before the Revenue. The Tribunal, however, considered his contention that

cocoanuts are not oil-seeds, but came to the conclusion that they are and incidentally also held that cocoanuts are not vegetables and therefore not

exempt from tax. What was pressed before us is whether the finding of the Tribunal that cocoanuts are oil-seeds is correct and justified. No other

point was seriously pressed or argued.

(2) The ordinary meaning of the word "seed" is "that which is sown". Its botanical expansion, according to the Chambers' 20th Century Dictionary

is, a multi-cellular structure by which flowering plants reproduce. It is an accepted canon of law that in interpreting words of common usage

appearing in a taxing statute, the meaning which is popular rather than the one which is technical as to be adopted. The one which is technical as to

be adopted. The acid test, therefore, to find out the meaning of the word, "cocoanut" (in a dehusked form) rests on the same being understood in

the manner a common man of society would view it. The importation of high skilled, technical and botanical meaning to a word of common

parlance would be to cause unnecessary violence to the same and particularly so when the word appears in a fiscal enactment. Tax cannot be the

result of intendment, but the produce of express specification. If two interpretations are possible to a word or expression in a taxing statute, the

meaning which leans to the benefit of the subject has to be adopted.

The word now before us for interpretation is "cocoanut". It is not a word which is of a technical or scientific character. It is one which is simple,

ordinary and used popularly. The rule to interpret such words of popular import has been well stated by Pollock B. in *Grenfell v. Inland Revenue*

Commissioners, (1876) 1 Ex 242, in the following words:--

that if a statute contains language which is capable of being construed in a popular sense, such statute is not to be construed according to the strict

or technical meaning of the language contained in it, but is to be construed in its popular sense, meaning, of course, by the words "popular sense"

that sense which people conversant with the subject-matter with which the statute is dealing would attribute to it.

But,

If a word in its popular sense and read in an ordinary way is capable of two constructions, it is wise to adopt such a construction as is based on

the assumption that Parliament merely intended to give so much power as was necessary for carrying out the objects of the Act and not to give any

unnecessary powers. In other words, the construction of the words is to be adopted to the fitness of the matter of the statute.

The Supreme Court in *Commissioner of Sales Tax, Madhya Pradesh Vs. Jaswant Singh Charan Singh*, , while explaining the word "charcoal" in

the Madhya Pradesh General Sales Tax Act, 1958, observed as follows:--

A sales tax statute, being one levying a tax on goods, must, in the absence of a technical term or a term of science or art, be presumed to have

used an ordinary term as coal according to the meaning ascribed to it in common

parlance. Viewed from that angle, both a merchant dealing in coal and a consumer wanting to purchase it would regard coal not in its geological sense but in the sense as ordinarily understood and would include charcoal"" in the term ""coal"".

(3) Thus, the ""popular understanding"" test prevails over others whilst appreciating the real purport and intent of words used in popular parlance and engaged in a taxing statute. This leads us to the question as to how and in what manner ""oil-seeds"" are understood commonly. Not every seed from which oil can be extracted can be captioned as an oil-seed. In these days of scientific advancement and indeed the stonic age, it is possible to conceive that oil can be extracted from any seed by adopting a technical process. It would not be, therefore, proper to conclude legally that seeds from which oil could be extracted by such adoption of a skilled technical process could be deemed and equated to oil-seeds as understood in common parlance. Some seeds, by reason of the application of scientific methods, might produce oil and, therefore, may be terminologically equated to oil-seeds.

But the same seeds might not have been understood or applied in the popular sense as oil-seeds, because they are incapable of yielding oil as understood commonly. Therefore, it is necessary that care should be taken in interpreting the word for legal purposes, and particularly under the subject of taxation and while vivifying that word, the popular understanding of it should be rather pressed into service rather than its botanical, scientific or technological signification.

(4) ""Oil-seeds"" is described in the Second Schedule to the Madras General Sales Tax Act, 1959, as a species of declared goods under Item 6(a) thereto. It runs as follows:--

Oil-seeds, other than cardamom and groundnut, that is to say, seeds yielding non-volatile oils used for human consumption or in industry or in the manufacture of varnishes, soaps and the like or in lubrication and volatile oils used chiefly in medicines, perfumes, cosmetics and the like.

A similar description of oil-seeds appears in Schedule IV of the Andhra Pradesh General Sales Tax Act, 1957. Chandra Reddy, C.J. and

Jaganmohan Reddy, J., interpreting the word ""oil-seeds"" in State of Andhra Pradesh v. Kajjam Ramachandraiah, (1961) 12 STC 795 observed as

follows:--

What was in contemplation of the Legislature when it enacted Item 3 of Schedule IV of the Andhra Pradesh General Sales Tax Act, 1957, was to

tax the turnover of oil-seeds which in common parlance would be taken as oil-seeds, but not every seed from which by some process or other oil

can be extracted.

The learned Judges held that coriander, ajwan and sompu are used as spices and are not known as oil-seeds and consequently they did not fall

within the definition of oil-seeds mentioned in Item 3 of Schedule IV. The High Court of Madhya Pradesh is of the view that cocoanuts are not oil-

seeds. In Commissioner of Sales Tax v. Bakhat Rai & Co., (1966) 18 STC 285, the learned Chief Justice of Madhya Pradesh High Court

speaking for the Bench, held:

Every article or seed which can yield oil is not an oil-seed as contemplated by Item No. 3 of Part II of Schedule I of the C. P. and Berar Sales

Tax Act, 1947. The test is not whether oil can be extracted from a fruit or seed, but it is whether in common parlance the article is known as "oil-

seeds" used principally for the extraction of oil. Judged by this test, it cannot be said that cocoanuts, groundnuts and jira fall with the meaning of the

term "oil-seeds" as used in Item No. 3 of Part II of Schedule I to the Act.

The Indian Oil-seeds Committee Act, 1947, is an Act to provide for the creation of a fund to be expended by a Committee specially constituted

for the improvement and development of the cultivation and marketing of oil-seeds and of the production, manufacture and marketing of oil-seed

products. Herein also significantly "cocoanuts" are excluded from the definition of "oil-seeds". Encyclopaedia Britannica, Vol. 5, enumerates the

uses to which cocoanuts are applied. It says:

The nuts supply no inconsiderable proportion of the food of the natives, and the milky juice enclosed within them forms a pleasant and refreshing

drink..... The coconut palm also furnishes very important articles of external commerce, of which the principal is coconut oil. It is obtained by

pressure or boiling from the kernels, which are first broken up into small pieces and dried in the sun, when they are known as copra.

Thus, an intermediary process of a special nature is required to extract coconut oil. There are other uses of a common nature to this seed.

Therefore, it cannot be equated as an oil-seed pure and simple.

(5) The Mysore and the Kerala High Courts are, however, of the view that coconuts are oil-seeds. The Mysore High Court in *Kasturi Seshagiri*

Pai and Co. v. Dy. Commissioner of South Kanara, 1961 12 STC 629 = AIR 1962 Mys 1, held that the expression "oil-seeds" occurring in S.

14(vi) of the Central Sales Tax Act, 1956, includes coconut and copra. They were, in fact, considering the power of the Revenue under the

Madras Commercial Crops Markets, Act 1933 (as amended later), to impose a levy over an above the prescribed rate for declared goods under

the Central Sales Tax Act. Under similar circumstances, the Kerala High Court held that coconuts are oil-seeds. If these judgments were to mean

that at all times and for all purposes coconut is an oil-seed, we respectfully differ.

(6) We are in agreement with the ratio as set out in the decisions reported in (1961) 12 STC 795 and (1966) 18 STC 285. In this view of ours

that coconut is not an oil-seed, we are unable to sustain the order of the Tribunal, which mainly rested its conclusion on that basis. As already

stated, the finding of the Tribunal that coconut are not vegetables was not seriously canvassed before us and it is not necessary for us to deal with

it. In view of our conclusions as above that coconuts are not oil-seeds, the order of the Tribunal is set aside in so far as it relates to the subject

under discussion, the matter should be remitted back to the Tribunal for fresh disposal of the appeal before it in accordance with law. There will be

no order as to costs in this revision case.

(7) Answered accordingly.