

(2004) 06 AHC CK 0003
In the Allahabad High Court
Case No : Trade Tax Revision No. 1261 of 2004

Sonebhadra Fuels

APPELLANT

Vs

Commissioner of Trade Tax

RESPONDENT

Date of Decision : 25-06-2004

Acts Referred:

Central Sales Tax Act, 1956 — Section 14, 15
Income Tax Act, 1961 — Section 32A(1), 32A(2)
Uttar Pradesh Krishi Utpadan Mandi Adhiniyam, 1964 — Section 2
Uttar Pradesh Trade Tax Act, 1948 — Section 11, 2, 3(3), 3A, 4A

Citation : (2004) 06 AHC CK 0003

Hon'ble Judges : B.S. Chauhan, J

Bench : Single Bench

Advocate : C.L. Pandey, for the Appellant; S.M.A. Kazmi, Chief Standing Counsel and S.P. Kesharwani, for the Respondent

Final Decision : Dismissed

Judgement

B.S. Chauhan, J.—This revision has been filed u/s 11 of the U.P. Trade Tax Act, 1948 (hereinafter called "the Act") against the judgment and order dated March 16, 2004 of the five-member Bench of the U.P. Trade Tax Tribunal (hereinafter called "the Tribunal"), given in Second Appeal No. 547 of 2001 for the assessment year 1998-99 wherein it has been held that "coal briquettes" prepared from coal dust, on which the sales tax has already been paid, is a different commercial commodity being prepared through process of manufacturing. Therefore, the revisionist/appellant being a manufacturer thereof, was liable to pay tax.

2. The facts and circumstances giving rise to this revision are that the assessee carries on business in coal and also manufactures the briquettes, popularly known as coal tiklis. The tiklis are prepared by moulding coal dust with clay or molasses. The assessee had applied for exemption/rebate of sales tax claiming that the coal briquettes are the same commodity as coal and it has already been subjected to tax. However, its claim was rejected by the assessing authority vide

assessment order dated March 31, 1999 (annexure 1). Being aggrieved, the revisionist/assessee preferred the appeal which was dismissed vide order dated July 19, 2001 (annexure 2) by the appellate authority. The assessee further preferred the second appeal before the Tribunal, wherein the matter was referred to the Larger Bench, i.e., the five-member Bench, which has been decided against the assessee vide impugned order dated March 16, 2004 (annexure 4). Hence this revision.

3. Heard Shri C. L. Pandey, learned Counsel for the revisionist and Shri S. M. A. Kazmi, learned Chief Standing Counsel with Shri S. P. Kesarwani, Advocate for the Revenue.

4. It has been submitted by Shri Pandey that the assessee cannot be fastened with the liability of tax for the reason that the coal-briquettes is the same as the coal, though produced by moulding coal dust with multani mitti/molasses in coal coke form, certainly using certain machines. Notification No. ST-II-5782, dated September 7, 1981, issued u/s 3-A of the Act provided that coal included coke in all its forms, but excluded charcoal. The said Notification was subsequently amended vide Notification No. ST-II-3685 dated July 31, 1986 providing that "coal includes coke in all its form, but excludes charcoal", and in both these Notifications, rate of tax has been at 4 per cent. Subsequently, Notification No. TIF-II-2372 dated November 23, 1998 was issued u/s 3-A of the Act which also provides "coal, including coke, in all its forms, but excludes charcoal" and provided for levy of tax at 4 per cent. Coal is a declared commodity u/s 14 of the Central Sales Tax Act, 1956 (hereinafter called "the Act, 1956") and the entry given in Clause (ia) reads "coal including coke in all its forms, but excluding charcoal". Section 15 of the Act, 1956 provides that tax cannot be imposed on declared goods at more than one stage. As the coal dust has already been subjected to tax, the tiklis are not taxable. Thus, the assessment order and orders in appeal, are liable to be set aside.

5. On the contrary, Shri Kazmi, learned Counsel for the Revenue, has submitted that the liability of tax under different notifications issued by the State from time to time, in exercise of the powers u/s 3-A of the Act, 1948, is on sale of goods by the manufacturer or importer. The term "manufacture" has been defined u/s 2(e-l) of the Act in a very wide term which takes within its ambit even altering, processing, treating or adapting any goods. As in the instant case, tiklis come into existence by manufacturing process, even if it falls under the category of coal, it becomes taxable being a different commodity under the same entry. A person who comes to purchase the coal briquettes knows the commodity as a different commercial commodity from coke or coal, and purchases the same at a different price and it has different characteristics and form than that of coal dust, therefore, the revision is devoid of any merit and should be rejected. More so, a revision lies only on question of law and as the Tribunal has recorded the findings of fact that the tiklis are made from the coal dust by going through the process of manufacturing and the coal dust loses its form, shape, qualities,

characteristics and the said finding is not under challenge, the revision is not worth acceptance.

6. I have considered the rival submissions made by the learned Counsel for the parties and perused the record.

7. The meaning given to the word "coal" in Blackies' Concise Dictionary, New Edition, page 134, reads as follows:

Coal : Kol : A piece of wood or other combustible substance burning or charred : charcoal; a cinder ; now, usually a solid black substance found in the earth, largely employed as fuel, and formed from vast masses of vegetable matter deposited through the luxurious growth of plants in former epochs of the earth's history.

8. The Shorter Oxford English Dictionary at pages 330 and 331 gives the meaning of coal as follows:

(1) A piece of carbon glowing without a flame. (2) A piece of burnt wood, etc., that is still capable of combustion without flame, cinder, ashes. (3) Charcoal. (4) A mineral, solid, hard, opaque, black or blackish, found in seams in the earth, and largely used as fuel; it consists of carbonised vegetable matter.

At page 293, the said Dictionary gives the meaning of charcoal as follows:

The suggestion that Char-Chare v. or sb. As if turn-coal, i.e., wood turned into coal, lacks support. 1. The black porous residue, consisting (when pure) wholly of carbon, obtained from partly burnt wood, bones, etc. Hence specified as wood, vegetable, animal, etc.

9. The Webster's New International Dictionary gives the following meaning of charcoal at page 452:

(Char to burn, reduce to coal; Coal) ;

A dark coloured or black porous form of carbon prepared from vegetable or animal substance, as that made by charging wood in a kiln, retort, etc., from which air is excluded.

10. According to these dictionaries, "coal" would appear to include "charcoal". [Vide Commissioner of Sales Tax, Madhya Pradesh Vs. Jaswant Singh Charan Singh,].

11. "Coke is a hard cellular mass of carbonaceous material. Coke is essentially a partially graphitized and cellular form of carbon. Coke is solid residue that remains after certain types of bituminous coals are heated to a high temperature out of contact with air until substantially all of the volatile constituents of the coals have been driven off. The residue consists principally of carbon...." Encyclopedia Britannica, Vol. 6 (1973 ED., P.35), quoted in Khanna Coke Industries and Another Vs. The Assistant Commissioner (Judicial), Sales Tax and Another, .

12. This court in *Commissioner of Trade Tax v. R.K. Coal Sales Pvt, Ltd.* [2000] 118 STC 486 : 1999 UPTC 1147, explained the different forms of coal commodities, i.e., coal powder, fire wood, coal briquettes and charcoal as under:

(i) Coal/coal powder:

Coal is not manufactured but is available as a mineral; coal powder is merely coal grounded to finer size. The chemical composition of coal powder is not different from the coal. In S. S. F., the volatile matter in coal is eliminated to a great extent while in coal the volatile matter remains in full.

(ii) Firewood ;

It is a dry wood obtained from felling trees,

(iii) Coal briquettes:

The raw material for coal briquettes is coal ground to generally below 2 mm. size. The crushed coal is mixed with suitable binders and pressed in briquetting press out of which regular shape required, briquettes may be carbonised in suitable carboniser. The size of coal (30-100 mm) required for manufacturing Special Smokeless Fuel (S. S. F.) is different from the size of coal required for making coal briquettes. No binder is required to be used for production of S. S. F.

(iv) Charcoal:

Charcoal is made by burning of wood in absence of air. The process of making charcoal is manual.

13. The above description makes it clear that all of them are different types of coal.

14. The tiklis are manufactured by compiling the hard coke breeze mechanically with the help of cinders which is complied with the help of clay, molasses or calex-powder. It is being used in the houses for cooking purpose.

15. The term manufacture has been defined u/s 2(e-I) of the Act as under:

"Manufacture" means producing, making, mining, collecting, extracting, altering, ornamenting, finishing or otherwise processing, treating or adapting any goods ; but does not include such manufacture or manufacturing processes as may be prescribed.

16. The definition is very wide and the honourable apex Court explained the term "manufacture" in *M/s. B.P. Oil Mills Ltd. Vs. Sales Tax Tribunal and Others*, observing that when the provisions of Section 3(3)(b)(ii) and (iii) of the Act are read in juxtaposition, with the definition of "manufacture" in Section 2(e-I) it becomes abundantly clear that a dealer will be liable to pay tax on sale of any goods he manufactures by processing the goods he purchased complying with the requirements of Clause (ii) of Sub-section (3) of Section 3 of the Act. The said provision clearly provides that tax shall be payable on goods manufactured

by the dealer. As the statute provides for imposition of multistage taxation u/s 3(3-b) of the Act, therefore, it is relevant as to whether by going through the process of manufacturing, a different commodity has come into existence. While deciding the said case the honourable apex Court considered, explained and followed a large number of its earlier judgments, including *State of Maharashtra Vs. M/s. Shiv Datt and Sons, etc.,*, *Sterling Foods, A Partnership Firm represented by its Partner Shri Ramesh Dalpatram Vs. State of Karnataka and Another,*, *Chowgule and Co. Pvt. Ltd. and Another Vs. Union of India (UOI) and Others,* and *Tungabhadra Industries Ltd. Vs. The Commercial Tax Officer, Kurnool,*.

17. A Constitution Bench in *Devi Das Gopal Krishnan and Others Vs. State of Punjab and Others,*, while considering the case of extracting the oil from oil-seeds, held edible oils produced were different from the oil-seeds and edible oil produced is taxable though tax has already been paid on the oil-seeds. The honourable apex Court referred to the dictionary meaning of the "manufacture" as "to transform or fashion raw material into a changed form for use" and held that oil is produced out of the seeds. The process certainly transforms the raw materials into different articles for use, therefore, taxable as a new commercial commodity. The apex Court further explained that even in a case where the scrap iron ingots undergo a vital change in the process of manufacture and are converted into different commodities, i.e., rolled steel sections, during the process the scrap iron loses its identity and becomes a new marketable commodity, and therefore, the process is certainly one of manufacture.

18. In *Ashirwad Ispat Udyog and Others Vs. State Level Committee and Others,*, the honourable Supreme Court considered the scope of definition of the term "manufacture" under the provisions of Section 2(j) of the *Madhya Pradesh General Sales Tax Act, 1958*, which is in pan materia with Section 2(e-l) of the Act, and held that manufacture is not confined to new marketable commodity but also includes old articles made as saleable. The court held as under:

Decisions construing the meaning of the word "manufacture" as used in other statutes do not apply unless the definition of that word in the particular statute under consideration is similar to that construed in the decisions. The plain construction of the special definition of the word in a particular Act must prevail. In the special definition given in Section 20 of the said Act "manufacture" has been defined as including a process or manner of producing, collecting, extracting, preparing or making any goods. There can be no doubt whatsoever that "collecting⁷ goods does not result in the production of a new article. There is, therefore, inherent evidence in the definition itself that the narrow meaning of the word "manufacture" was not intended to be applied in the said Act. Again, the definition speaks of "the process of lopping the branches (of trees), cutting the trunks". The lopping of branches and the cutting of trunks of trees also, self evidently, does not produce a new article. The clear words of the definition, therefore, must be given due weight and cannot be overlooked merely because

in other contexts the word "manufacture" has been judicially held to refer to the process of manufacture of new articles.

19. In Deputy Commissioner of Sales Tax (Law), Board of Revenue (Taxes), Ernakulam Vs. Coco Fibres, , the honourable Supreme Court considered the provisions of the Kerala General Sales Tax Act, 1963 wherein the term "manufacturing process" was considered and held that conversion of coconut husk into a coconut fibre was a manufacturing process. The apex Court held that by process of manufacture, something is produced and brought into existence which is different from that, out of which it is made in the sense that things produced is by itself a commercial commodity capable of being sold or supplied. The material from which the thing or product is manufactured, may necessarily lose its identity or may become transformed into the basic or essential properties. The article that would emerge as a result of process of manufacture must be a distinct and new article recognised or known as such in the commercial parlance for sale or supply.

20. In M/s. Saraswati Sugar Mills Vs. Haryana State Board and others, , the honourable Supreme Court explained the distinction between manufacture and processing observing that the construction of words and the meaning to be given for such words shall normally depend on the nature, scope and purpose of the statute in which it is occurring and to the fitness of the matter to the statute. The apex Court held that if a matter is processed, the product may not lose its original character. For example, the vegetables may be processed which even after processing, retain its character as vegetable. While in manufacturing, something is necessarily to be brought into existence which is different from that originally existed in the sense that the thing produced is a commercially different article. Thus, a statute is required to be interpreted strictly and the definition clause must be examined in a correct perspective giving the meaning of each word contained therein. The court held as under:

Manufacture implies a change but every change is not manufacture, and yet every change of an article is the result of treatment, labour and manipulation. . . .

The essential point thus is that in manufacture, something is brought into existence which is different from that originally existed in the sense that the thing produced is by itself a commercially different commodity whereas in the case of processing, it is not necessary to produce a commercially different article.

Processing essentially effectuates a change in form, contour, physical appearance or chemical combination or otherwise by artificial or natural means and in its more complicated form involves progressive action in performing, producing or making something (Vide Corn Products Refining Co. v. Federal Trade Commission 1994 CCA 7 : 144 F 2 211).

21. In Union of India (UOI) Vs. Delhi Cloth and General Mills, , the honourable apex Court explained the word "manufacture" used as a verb which is generally understood to mean as bringing into existence of a new substance and does not

mean merely to bring some change in a substance, however, minor in consequence the change may be. In a manufacture, there must be transformation and different article must emerge having a distinctive name, character or use.

22. Similar view has been reiterated in *Rajasthan State Electricity Board Vs. Associated Stone Industries and Another*, .

23. In *State of Maharashtra Vs. Mahalaxmi Stores*, , the apex Court held that processing or variation of the goods or finishing of goods would not amount to manufacture unless it results in emergence of a new commercial commodity.

24. In *M/s. Aspinwall and Co. Ltd Vs. The Commissioner of Income Tax, Ernakulam*, , the apex Court considered the meaning of manufacture as occurred u/s 32-A(1) and (2)(b)(iii) in the Income Tax Act and held that the words must be understood in common parlance and it may mean production of articles for use from raw or prepared materials by giving such materials new forms, qualities or combination whether by hand labour or machines. If the change made in the article results in a new and different article, then it would amount to manufacturing activity. In the said case, the assessee after plucking or receiving the raw coffee berries made it undergo nine processes to give it the shape of coffee beans. The net product was absolutely different and separate from the input. The change made in the article resulted in a new and different article which was recognised in the trade as a new and distinct commodity.

25. Similar views have been reiterated in *Ujagar Prints Vs. Union of India (UOI)*, , *Decorative Laminates (India) Pvt. Ltd. Vs. Collector of Central Excise, Bangalore*, and *Gramophone Co. India Ltd. v. Collector of Customs* [2001] 1 SCC 549.

26. In *Laminated Packings (P) Ltd. Vs. Collector of Central Excise, Guntur*, , the honourable Supreme Court held that lamination amounts to manufacture as it is made out of the laminated kraft paper by manufacturing process of lamination using polyethylene, etc., and, therefore, an entirely different goods comes into existence.

27. A division Bench of this Court in *Commissioner of Sales Tax, U.P., Lucknow v. Kaderul Sehat Dawakhana, Sambhal* [1984] 56 STC 133 : 1984 UPTC 224 has held that the expression "manufacture" covers within its sweep not only such activities carried on by a person which bring into existence a new commercial commodity different from the articles on which that activity was carried on, but also such activities which do not necessarily result in bringing into existence an article from the articles on which such activity was carried on, for example, where an activity by way of ornamenting of goods is carried on, the ornamented goods may not be goods commercially different from the goods which had been subject to ornamentation. But then a manufacturing activity, as defined by Section 2(e-l) having been carried on in respect of goods originally produced the ornamented goods will have to be treated as goods which have again been

manufactured. It was emphasised that whether the commercial identity of the goods subjected to process of "manufacture" changes or not, does not appear to be very material. Had the Legislature intended that it would have contented itself by defining in Section 2(e-l) of the Act the phrase "manufacture" to mean producing or making (in which case it might have been possible to urge that the goods produced or made should be commercially different from the goods from which they are produced or made) and it would not have included within its ambit, mixing, collecting, extracting, altering, ornamenting, finishing or otherwise processing, treating and adapting of goods in which cases generally the commercial identity of the concerned goods do not despite being subjected to such processes, undergo any change.

28. Therefore, the artificial definition of the term "manufacture" as contained in the Act has to be considered in a different perspective as held by this Court in Commissioner of Sales Tax v. Kanpur Glass House 1985 UPTC 1261 that if the Legislature has not considered to include a particular goods though may be of the same entry giving exemption or rebate in tax, the court should not interpret it differently otherwise it would amount to legislation. In the aforesaid case, this Court held that framing the mirror sheet with plywood so as to convert the mirror sheets into toilet looking glasses may not change the very nature of the mirror as it had gone through processing, becomes subject to tax.

29. In R.K. Coal Sales Pvt. Ltd. [2000] 118 STC 486 this Court considered the case of tax exemption u/s 4-A of the Act under Notification No. 1093, dated July 27, 1991 and after considering large number of judgments of various courts including the judgment of this Court in Khanna Coke Industries and Another Vs. The Assistant Commissioner (Judicial), Sales Tax and Another, held that as the notification specifically provided not to grant exemption of tax in case of manufacturing of coal briquettes, the tax exemption could not be granted.

30. In Khanna Coke Industries [1987] 64 STC 335 (AH) this Court held as under:

The coke therefore manufactured by mechanical pressing is used for the same purpose as coke. The contents of coke briquettes, namely, moisture, volatile matters, ash and carbon are the same as in any other coke. The mere change in shape by mechanical pressing does not change the commodity. It remains the same. In Webster's Third New International Dictionary "form" has been defined as "the shape and structure of something as distinguished from the material of which it is composed". Mere change of shape or structure in the raw material does not result in production of a new commodity. And even if it is so the entry is wide enough to cover in its fold commodities which remain the same despite change in shape. Coke briquettes thus being only a preparation of coke dust are covered by the expression "coke in all its form".

31. However, the judgment in Khanna Coke Industries and Another Vs. The Assistant Commissioner (Judicial), Sales Tax and Another, has been considered time and again by this Court. In R.K. Coal Sales [2000] 118 STC 486 this Court

after considering the aforesaid judgment, categorically held that there is nothing in the said ruling that can justify the view that the coal briquettes and special smokeless fuel are the same thing and can be treated as the same if the notification for exemption specifically bars the exemption of tax in case of coal briquettes. This view further stands fortified by the Notification No. ST-II-1093/XI-7(42)-68-UP Act-XV/48-Order-90, dated July 27, 1991 and annexure II thereof provides list of industries not entitled to the facility of exemption from or reduction in rate of tax which includes, at serial No. 11, the coal powder, fire wood, coal briquettes and charcoal manufacturing units.

32. A similar situation emerges from Notification No. TT-2-780/XI-9(226)/94-U.P. Act-15/48-Order-95, dated March 31, 1995 and annexure II thereof provides list of industries not entitled to the facility of exemption from or reduction in rate of tax which includes at serial No. 5, the coal powder, fire wood, coal briquettes and charcoal manufacturing units.

33. In *K.A.K. Anwar & Co. v. State of Tamil Nadu* [1998] 108 STC 258 (SC) , the honourable Supreme Court considered the issue as to whether the turnover in respect of hides and skins, subjected to tax under the State Act on its purchase at the raw stage, could be taxed again on inter-State sales as tanned or dressed hides and skins. The apex Court after considering large number of its earlier judgments held that merely because different goods or commodities are listed together in the same sub-heading or sub-item in Section 14 of the Act, 1956, cannot mean that they are regarded as one and the same item. Whenever the Legislature wanted different goods placed in the same entry to be regarded as a single commodity, it expressly provided for the same and, therefore, dressed hides and skin cannot be treated as raw hides treating as a single commodity for the purpose of levy of tax. The raw hides goes through manufacturing process to become dressed hides and skin involving various stages. The apex Court considered and approved its earlier judgment in *State of Tamil Nadu Vs. Pyare Lal Malhotra and Others*, and also *Rajasthan Roller Flour Mills Association and another Vs. State of Rajasthan and others*, where in the former case, it has been held that the cases under the Sales Tax Act are to be examined considering that the taxable event is the sale and not manufacturing of goods and for that purpose, it may be necessary to determine as by process of manufacturing a new commercial activity has come into existence. The court must examine that the law of sales tax is concerned with goods of various descriptions, therefore, the relevant consideration is as at what point of time, the goods ceased to be goods of one taxable description and become those of commercially different category and description, and in the latter case, it was held that whether after going through the process of manufacturing after being converted into flour, maida, suji become different commercial commodities and they become new goods having higher utility than the commodity consumed and subject to tax at that stage also.

34. In *The Collector of Central Excise, Meerut Vs. Kapri International (P) Ltd.*, ,

the honourable Supreme Court held that by cutting of cotton fibre from running length into small pieces and converting into bed sheets, bed spreads, table clothes and napkins, etc., as new commodity comes into existence, it was subject to duty.

35. The case cited on behalf of the revisionist-applicant is Park Leather Industry (P.) Ltd. v. State of U.P. [2001] 122 STC 82 (SC) [2001] 3 SCC 135 wherein it has been held that raw hides and skins even after going through the process, remain the same commodity, is of no assistance in the instant case. In the said judgment, my own judgment given on behalf of division Bench in Park Leather Industry (P.) Ltd. v. State of U.P. [1996] 3 UPLBEC 1561, has been under challenge. The said case was in respect of levy of fee by the Mandi Samiti under the provisions of the U.P. Krishi Utpadan Mandi Adhiniyam, 1964 (hereinafter called "the Act, 1964") and the issue involved therein had been as to whether skin and hides even after going through the manufacturing process, remained the agricultural produce or not. The honourable apex Court held that the case was required to be interpreted under the provisions of Section 2(a) of the Act, 1964 which defined "agricultural produce". As that was not the case under the Sales Tax Act, no assistance can be taken therefrom.

36. In view of the above, the position can be summarised that the term "manufacture" generally means bringing into existence a new commercial commodity. However, it is not a formula of universal application. The artificial definition of the said term may be wide enough requiring no such condition. It may not always be necessary that after going through the process of manufacturing, a new commercial commodity comes into existence. It depends upon the language used by the Legislature in defining the term "manufacture", as explained above. In certain circumstances, after processing or ornamenting, the goods may retain their original character and form, no new commodity comes into existence, but that does not mean that if Legislature has made them taxable, the same require to be given tax exemption/rebate.

37. In the instant case, there is specific finding of facts that coal dust and coal briquettes are a form of coal. The Tribunal after analysing the facts held that in Khanna Coke Industries and Another Vs. The Assistant Commissioner (Judicial), Sales Tax and Another, , the issue had been entirely different as to whether coke and coal briquettes belong to the same category. In the instant case, issue has been as to whether the coal briquettes manufactured using the coal dust on which the tax has already been paid, as a raw material, is subject to tax again as a different commercial commodity altogether. The Tribunal has held that coal briquettes are entirely different commercial commodity from the coal dust as it loses its character, shape and even the degree of combustibility. Molasses itself is a raw material for producing many goods and may not be used in the manufacturing of coal briquettes merely for the purpose of compiling/jointing but also as a good fuel. By adding the molasses, the combustibility of the coal dust is enhanced and if clay is added, the same stands reduced. The finding recorded by

the learned Tribunal is not under challenge seriously as no material has been produced to establish to the contrary. The issue involved herein was not in the aforesaid case of Khanna Coke Industries and Another Vs. The Assistant Commissioner (Judicial), Sales Tax and Another, , thus, that judgment has no bearing in the instant case.

38. Coal briquettes after manufacturing cannot be said to be coal dust. By process of manufacturing, coal dust loses its identity. Coal briquettes and coal dust are known as two different commercial commodities in substance as well as in character. Therefore, after manufacturing, coal briquettes cannot be exempted from tax merely because tax has already been paid on coal dust.

39. In Khanna Coke Industries and Another Vs. The Assistant Commissioner (Judicial), Sales Tax and Another, , the dispute was whether coal briquettes were declared commodity covered under the entry of "coal and coke in all its form other than charcoal". In the instant case the issue is altogether different. Even, assuming that coal briquettes fall under the entry of "coal including coke in all its form" but admittedly being manufactured product, liable to tax, being different commodity than coal dust out of which it was manufactured. In fact, coal dust is a raw material of coal briquettes. The coal briquettes have altogether different shape, form, moisture as well the characteristics that form the coal dust. The findings of fact recorded by the learned Tribunal, in these regards do not warrant any interference in a limited divisional jurisdiction.

40. Petition is devoid of any merit and stands dismissed accordingly. Interim order dated June 18, 2004, is hereby vacated. No costs.