(1994) 11 OHC CK 0034

In the Orissa High Court

Case No : O. J. C. Case No. 319 of 1992

Tejraj Parasmal APPELLANT

Vs

State of Orissa and Another RESPONDENT

Date of Decision : 21-11-1994

Acts Referred:
Orissa Sales Tax Act, 1947 — Section 5, 6

Citation : (1995) 1 OLR 79

Hon'ble Judges : V.A. Mohta, C.J;R.K. Patra, J;D.P. Mohapatra, J

Bench : Full Bench

Advocate : B. Agarwalla, M.L. Agarwalla and S.P. Dalai, for the Appellant; S.K. Patnaik, A.S.C. (C. T.), for the Respondent

Final Decision : Allowed

Judgement

V.A. Mohta, C.J.—The question that needs to be determined in this matter is :

"Whether the word ''sealed'' used in serial No.9 and serial No. 80 (subsequently 89) relating to tax-free and taxable goods cover both packets and containers or only packets?"

2. The petitioner is a registered dealer under the Orissa Sales Tax Act, 1947 (the Act). He carries on wholesale business of purchase and sale of salt in non-sealed gunny bags and/or non-sealed nylon Packets. By three different assessment orders made by the Sales Tax Officer, Kalahandi Circle, Bhawanipatna (Annexures-1, 1/A and 1/b) these seals have been brought to tax. Aggrieved thereby this petition was filed.

3. The assessment orders have been based upon the ratio of the decision of this Court in the case of Kishore Kumar Thakkar v. State of Orissa (1991) 80 STC 134, wherein it has been held that in view of entry at serial No.29 of the notification issued underSection6 of the Act and serial No. 80 of the notification under Section5 of the Act (subsequently serial No. 89), sale of salt is taxable since it was sold in containers, though not sealed.

4. Section 5 of the Act provides f6r payment of tax by a dealer on its taxable turnover and Section 6 gives the State the power of exemption on sale/purchase of any goods subject to such conditions and exemptions as may be notified. Serial No. 29 reads thus :

"29. Salt Except when sold in sealed packets and containers."

Serial No. 89 reads as under:

"89. Salt when sold in sealed packets 4 percent." and containers.

In Kishore Kumar Thakkar (supra), it has been held that the word ''sealed'' governs only the word ''packets'' and it does not govern the word ''containers''. Expressing dissent with the said view, the point has been referred to the Full Bench.

5. It is English Grammar that when two nouns stand for things or persons closely connected, the determining word is not repeated before the second noun. Moreover, the associated words take their meaning from one another under the doctrine of noscitur a'' socisis the philosophy of which is that the meaning of the word is to be judged by the company it keeps, it is clear that the word ''sealed'' applies both to the words ''packets'' and ''containers''. The intention of the Legislature is amply clear and can be discerned by application of plain language formula of interpretation of statutes. Even if there is any doubt, its benefits must go to the tax-payer. In this context, it may be noted that with the passage of time, the Legislature adopted a policy of totally exempting salt from the sales tax.

6. We, therefore, record our answer to the question in the positive and in favour of the petitioner. The inevitable result of the above answer is the quashing of the impugned assessment orders, for which the empty formality of sending back the case to the Division Bench is not necessary.

7. To conclude, the petition is allowed and the impugned assessment orders are quashed and set aside. No order as to costs.

D.P. Mohapatra, J.

8. I agree.

R.K. Patra, J.

9. I agree.

