

Annaupurna Biscuit Manufacturing Co., Kanpur

Vs

Commissioner of Sales Tax, U.P., Lucknow

Civil Appeal No. 3133(NT) of 1979

(R.S. Pathak, E.S. Venkataramiah, V.B. Eradi JJ)

28.07.1981

JUDGMENT

VENKATARAMIAH, J. –

1. The short point for consideration in this appeal is whether the expression 'cooked food' used in certain notification issued under the U.P. Sales Tax Act, 1948 (U.P. Act XV of 1948) (hereinafter referred to as 'the Act') can be construed as including within its meaning 'biscuits' also.
2. The assessee, the appellant herein, is a registered firm engaged in the business of manufacture and sale of biscuits intended for human consumption. The assessee is a registered dealer under the Act. During the assessment proceedings under the Act for year 1972-73 the assessee claimed that the turnover relating to biscuits manufactured and sold by it amounting to Rs. 35,09,920.38 was liable to be taxed at two per cent which was the rate prescribed by a notification issued by the State Government for cooked food contending that 'cooked food' included 'biscuits' also. The notification relied on was one issued on October 6, 1971 under sub-section (2) of Section 3-A of the Act in supersession of an earlier notification dated July 1, 1969. In both the notifications the tax was fixed at two per cent of the turn-over payable at all points of sale in the case of cooked food. The Assistant Commissioner (Tax Assessment), Sales Tax, Kanpur who was the assessing authority rejected the contention of the assessee that cooked food included biscuits also and imposed tax at the rate of three and a half per cent on the turnover relating to biscuits treating the same as an unclassified commodity. An appeal filed against the order of the assessing authority before the Deputy Commissioner, Sales Tax and a further appeal before the Judge (Appeal), Sales Tax, Lucknow were unsuccessful. The High Court of Allahabad also declined to interfere with the said order. This appeal by special leave is filed against the order of the High Court under Article 136 of the Constitution.
3. The only ground urged before us is that biscuits should have been treated by the authorities under the Act and by the High Court as cooked food and sales tax should have been levied on the turnover of biscuits at the rate prescribed in respect of cooked food under the notification referred to above. The argument urged on behalf of the appellant is that biscuit which was consumed by human beings for nourishment is food and since it is prepared by baking which is a kind of cooking process it should be treated as cooked food. Relying on some foreign English dictionaries it is contended that cooking means preparation of food by application of heat as by boiling, baking, roasting, broiling etc. and biscuit should therefore be treated as cooked food. What is of significance in this case is that the Hindu version of the notification issued uses the expression (pakaya hua bhojan) for 'cooked food' found in the notification in English language.

4. It is a well settled rule of construction that the words used in a law imposing a tax should be construed in the same way in which they are understood in ordinary parlance in the area in which the law is in force. If an expression is capable of a wider meaning as well as narrower meaning the question whether the wider or the narrower meaning should be given depends on the context and the background of the case. In *Hinde v. Allmond* (87 LJ KB 893) the question was whether tea was an "article of food" within the meaning of an Order designed to prohibit the hoarding of food namely Food Hoarding Order of 1917. The learned judges held it was not even though in some other decisions it had been held to be an "article of food". Shearman, J. one of the judges said that he rested his judgment on the "common sense interpretation of the word 'food' in the Order, apart from its meaning in any other statute". It is interesting to note that in a case before the Allahabad High Court in *Annapurna Biscuit Manufacturing Co. v. State of U.P.* ((1975) 35 STC 127 (All)) the assessee had contended that biscuit was an article of confectionery and that contention was negatived. It is relevant to note, as we have mentioned earlier, that when the Hindi text of the notification was issued contemporaneously with the English version, the words (pakaya hua bhojan) were used as the equivalent of the words 'cooked food'.

5. It may be that biscuit is served at tea time and in its wider meaning 'cooked food' may include biscuit. But ordinarily biscuit is not understood as cooked food. If a person goes to a hotel or restaurant and asks for some cooked food or (pakaya hua bhojan) certainly he will not be served with biscuits in Uttar Pradesh. While it is not necessary to state in the present case as to what all items may be called as cooked food, we can definitely say that in the context and background of the notification biscuit cannot be treated as cooked food.

6. The High Court of Allahabad has in an earlier case in *C.S.T. v. Jassu Ram Bakery Dealer* ((1976) 38 STC 461 (All)) held that biscuit was not cooked food. The High Court of Madhya Pradesh has also taken the same view in *C.S.T., M.P. v. Ballabhdas Iswardas* ((1968) 21 STC 309 (MP)). We approve of the views expressed in the aforesaid decisions.

7. There is no ground to interfere with the orders under appeal. In the result, this appeal fails and is dismissed. No costs.

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