

Commissioner of Income-Tax, Amritsar

Vs

Strawboard Manufacturing Co. Ltd.

Civil Appeals Nos. 519 to 521 of 1975

(CJI R. S. Pathak M. H. Kania JJ)

28.04.1989

JUDGMENT

R. S. PATHAK C.J.I. –

1. These appeals by special leave are directed against a judgment of the High Court of Punjab and Haryana disposing of an income-tax reference in favour of the respondent assessee.

The assessee manufactures strawboard. For the assessment years 1965-66, 1966-67 and 1967-68 (the relevant previous years being the respective calendar years 1964, 1965 and 1966), the assessee claimed concessional rates of income-tax, development rebate at higher rate and deduction under section 80E of the Income-tax Act, 1961, on the ground that the manufacture of strawboard was a priority industry. For the assessment year 1965-66, the total income assessed was Rs. 17,71,334 and against the basis rate of 80 per cent., the assessee claimed rebate at the rate of 35 per cent, up to Rs. 10,00,000 and on the balance at 26 per cent. The Income-tax officer allowed the rebate at 30 per cent. up to Rs. 10,00,000 and at 20 per cent. on the balance. For the assessment year 1966-67, the assessee claimed development rebate under section 33 of the Income-tax Act as the rate of 25 per cent. on the value of the machinery installed after April 1, 1965, worth Rs. 34,287, but rebate was allowed at 20 per cent. only. The assessee also claimed benefit under section 80E (inserted by the Finance Act, 1966, with effect from April 1, 1966 to the extent of the income determined by the Income-tax Officer at Rs. 8,17,485 derived from the manufacture of strawboard. This industry is mentioned at item No. 16 in the Fifth Schedule to the Income-tax Act as substituted by the Finance Act, 1965. The claim of the assessee was rejected by the Income-tax Officer. For the assessment year 1967-68, the total income of the assessee was determined at Rs. 11,00,885. The assessee claimed relief under section 80E to the extent of Rs. 7,50,316 derived as income from the manufacture of strawboard. This claim was similarly rejected by the Income-tax Officer on the ground that the assessee could not be described as a priority industry. The Income-tax officer took the view that the, manufacture of strawboard was not covered by the words "paper and pulp" in the relevant Schedules pertaining to the assessment years 1966-67 and 1967-68.

The assessee appealed to the Appellate Assistant commissioner of Income-tax in respect of the three assessments, but the appeals were dismissed. In second appeals filed in all the three cases, the assessee's plea that the manufacture of strawboard was a priority industry was accepted and the Appellate Tribunal held that the assessee was entitled to the statutory rebates claimed by it. At the instance of the Revenue, the Tribunal referred the following questions to the High Court for its opinion:

"Assessment year 1965-66:

Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that 'strawboard' is covered by the term 'paper and pulp' appearing in Paragraph F of Part I read with Part III of the First Schedule to the Finance Act, 1965 (X of 1965) ?

Assessment years 1966-67 and 1967-68:

Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that 'strawboard' is covered by the term 'paper and pulp' appearing at item 16 of the Fifth Schedule to the Income-tax Act, 1961, and in allowing the assessee's claim under section 80E of the Act ?"

The High Court has held that the strawboard industry is covered within the expression "paper and pulp" appearing in the relevant Schedules to the Income-tax Act, and has, therefore, answered the questions referred to it in the affirmative, in favour of the assessee and against the Revenue.

The sole question before us is whether strawboard can be said to fall within the expression "paper and pulp" mentioned in the Schedules relevant to the respective assessment years. To resolve the question, it is necessary first to examine the significance and scope of the Schedules. The provision for rebate has been made for the purpose of encouraging the setting up of new industries, and the industries are those described in the relevant Schedules. It seems to us clear that when the Schedules refer to 'paper and pulp', they in fact intend to refer to the paper and pulp industry. That being so. The next question is whether the strawboard industry can be described as forming part of the paper and pulp industry. We have no doubt in our mind that it does. The expression has been used comprehensively. It is necessary to remember that when a provision is made in the context of a law providing for concessional rates of tax for the purposes of encouraging an industrial activity, a liberal construction should be put upon the language of the statute. From the material before us, which we have carefully considered. That's the only reasonable conclusion to be reached in this case. The High Court has referred to the licence dated may 31, 1954, issued to the assessee that the undertaking of the assessee was registered in terms of section 10 of the Industries (Development and Regulation) Act. 1951, and the details given in the licence declare that it relates to a Schedule industry which includes newsprint paperboard and strawboard. The High Court has also referred to the circumstance that the process of manufacturing strawboard is identical with that of manufacturing paper, the expression "paper and pulp" in the Industries (Development and Regulation) Act includes paperboard and strawboard. Our attention has been drawn to the entry relevant to the assessment year 1964-65 which speaks of 'paper and pulp including paper products' and. It is said, strawboard is evidently not within the natural meaning of the word "paper". We do not think that the submission merits serious consideration. Newsprint, paperboard and strawboard have been specifically mentioned in the entry in order to make it clear that they are included within the meaning of the word 'paper.

In our judgment, the High Court is right in taking the view which it has, and therefore, the appeals must be dismissed.

The appeals are dismissed with costs.

Appeals dismissed.

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