D. H. Brothers Pvt. Ltd.

Vs

Commissioner of Sales Tax, U. P., Lucknow

Civil Appeal No. 5047(NT) of 1985

(Kuldip Singh, K. Ramaswamy JJ)

08.08.1991

JUDGMENT

KULDIP SINGH, J. –

1. The short question for our consideration in this appeal is whether a sugarcane crusher (kolhu) is an "agricultural implement" with the meaning of U.P. Government notification dated November 14, 1980 and as such is exempt from levy of sales tax.

2. M/s. D.H. Brothers Pvt. Ltd., a registered dealer under the U.P. Sales Tax Act, is engaged in the sale of machinery including sugarcane crushers. After coming into force of Uttar Pradesh Sales Tax Act, 1948 (hereinafter called 'the Act') the State Government issued a notification dated June 7, 1948 exempting agricultural implements from the levy of sales tax. Thereafter fresh notifications were issued from time to time. The relevant notification dated November 14, 1980 enumerated the "Agricultural implements" as under :

> "'Agricultural implements' worked by human or animal power, including khurpi, dibbler, spade, hansia (sickle), garden knife, axe, gandasa, chaff cutters, shears, secateurs, rake, shovel, ploughs, water lifting leather buckets (pur and mhot), rahat and persian wheel, chain pump, harrows, hoes, cultivators, seed drills, threshers, shellers, winnowing fans, paddy weeders, garden fork, lopper, belcha, bill hook (double edge), kudali, fork, garden hatchet, bill hook (single edge), hay bailer, bund formers, scrappers, levellers or levelling karahas, yokes, crop yield judging hoops, hand sprayers, hand dusters, animal driven vehicles including carts having pneumatic tyre wheels, crowbars, sugarcane planters and accessories, attachments and spare parts of these agricultural implements."

3. The assessee invoked the jurisdiction of Commissioner, Sales Tax, Uttar Pradesh under Section 35 of the Act claiming that the 'kolhu' meant for extracting juice from sugarcane was an agricultural implement within the abovequoted notification and as such was exempt from levy of sales tax. The Commissioner by his order dated December 31, 1983 decided the question against the assessee. The assessee filed appeal against the said order before the Sales Tax Tribunal, Lucknow Bench, under Section 10 of the Act. The Tribunal upheld the findings of the Commissioner and dismissed the appeal. Thereafter the assessee preferred a revision petition under Section 11 of the Act before the Allahabad High Court. The High Court relying on its earlier decision in Bharat Engineering and Foundry Works v. U.P. Government [(1963) 14 STC 262 (All)] dismissed the revision petition. In that case the question for consideration before the High Court was whether cane crushers are agricultural implements within the meaning of the words 'agricultural implements' as mentioned in

the government notification... and hence exempt from U.P. sales tax". The question was answered in the negative on the following reasoning :

> "Cane crushers and boiling pans are used only in the manufacture of gur from sugarcane. Sugarcane is an agricultural produce and the process which results in the production of sugarcane is undoubtedly agriculture, but the production of gur from sugarcane is a manufacturing process and no an agricultural process. The agricultural process come to an end with the production of sugarcane and when gur is subsequently being prepared it is manufacturing process that commences. Merely because sugarcane is an agricultural produce anything that is done to it after it is produced is not necessarily a continuation of the agricultural process. It cannot be doubted that agricultural produce can be subjected to a manufacturing process; merely because gur is produced out of sugarcane which is an agricultural produce, the process of preparing gur does not become an agricultural process... An agricultural implement is an implement that is used in agricultural; any implement that is used after the agricultural process comes to an end and a manufacturing process commences, is not an agricultural implement."

4. The High Court in Bharat Engineering case [(1963) 14 STC 262 (All)] relied upon the following observations of this Court in CIT v. Raja Benoy Kumar Sahas Roy [(1957) 32 ITR 466, 507-08 : AIR 1957 SC 768 : 1958 SCR 101] :

> "Agriculture is the basis idea underlying the expressions 'agricultural purposes' and 'agricultural operations' and it is pertinent therefore to enquire what is the connotation of the term 'agriculture'. As we have noted above, the primary sense in which the term agriculture is understood is agar-field and cultra-cultivation, i.e., the cultivation of the field, and if the term is understood only in that sense agriculture would be restricted only to cultivation of the land in strict sense of the term meaning thereby, tilling of the land, sowing of the seeds, planting and similar operations on the land. They would be the basic operations and would require the expenditure of human skill and labour upon the land itself. There are however other operations which have got to be resorted to by the agriculturist and which are absolutely necessary for the purpose of effectively raising the produce from the land. They are operations to be performed after the produce sprouts from the land, e.g., weeding, digging the soil around the growth, removal of undesirable undergrowths and all operations which foster the growth and preserve the same not only from insects and pests but also from depredation from outside, tending, pruning, cutting, harvesting, and rendering the produce fit for the market. The latter would all be agricultural operations when taken in conjunction with the basis operations above described, and it would be futile to urge that they are not agricultural operations at all...."

5. It is clear from the abovequoted observations of this Court that the agricultural process comes to an end when the crop is harvested and is brought home for marketing or for further processing. In the present case the agricultural process finishes when sugarcane is harvested. Preparation of gur from sugarcane is not the continuation of the agricultural process.

6. While giving meaning to an item in a taxing statute the courts should give it a meaning as intended by the framers of the statue by looking at the various items mentioned in a particular group. The items in one group should be considered in a generic sense. The notification dated

November 14, 1980 includes various items under the head "agricultural implements". It is no doubt correct that the said definition cannot be confined to the various implements specifically mentioned therein. The definition being inclusive it has a wider import and any other implement which answers the description of an agricultural implement can be included in the definition. A bare reading of the notification, however, shows that all the implements mentioned by name after the word "including..." are by and large those which are used for cultivation of land and other operations which foster the growth and preserve the agricultural produce. None of these implements can be worked after the agricultural process in respect of a crop comes to an end. Therefore the intention of the framers of the notification could only be to limit the general words in the notification to the implements of the same kind as are specified therein. We are, therefore, of the view that on the plain reading of the notification the sugarcane crushers do not come within the definition of agricultural implements.

7. It was been brought to our notice that from 1985 onwards the State Government has specifically exempted sugarcane crushers from the levy of sales tax.

8. We dismiss the appeal with no order as to costs.

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