

A.P. Rice Bran Solvent Extractors' Association and Others

Vs

Union of India and Others

Civil Appeal No. 2321 of 1988

(S. C. Agarwal, K. Vankataswami JJ)

19.02.1998

ORDER

1. The only question that falls for consideration in this appeal filed against the judgment of the Andhra Pradesh High Court dated 21-4-1988 is whether rice bran oil is "vegetable oil" for the purpose of the Vegetable Oil Cess Act, 1983 (hereinafter referred to as "the Cess Act"). The expression "vegetable oil" is not defined in the Cess Act and we have to go to the definition of the said expression in Section 3(h) of the National Oilseeds and Vegetable Oils Development Board Act (hereinafter referred to as "the Development Board Act"). In Section 3(h) "vegetable oil" has been defined as under :

"3. (h) 'Vegetable oil' means any oil produced from oilseeds, or any other oil-bearing material of plant origin, and containing glycerides but does not include any such vegetable oil which has been subjected to any processing subsequent to the recovery of oil;"

2. In the impugned judgment, the Andhra Pradesh High Court has held that since rice bran is an oil-bearing material of plant origin, rice bran oil is vegetable oil. Shri Nageswara Rao, the learned counsel appearing for the appellants, has invited our attention to the decision of the Allahabad High Court in U.P. Solvent Extractors' Assn. v. Union of India [1988 All LJ 471 : (1989) 39 ELT 18] and the decision of the Bombay High Court (Nagpur Bench) in Bhasir Oil Mills v. Union of India [(1990) 47 ELT 305 (Bom)] wherein a contrary view has been taken. It has not been shown that any appeal has been filed against the said decisions.

3. The Allahabad High Court has pointed out that rice bran is the upper brownish part of the rice which is taken out in powder form when rice obtained from husking of paddy is processed in the rice mill and that it is a waste or by-product of rice. Rice bran oil is produced by the method of solvent extraction by mixing rice bran with liquid hexane, a highly inflammable petroleum product, so that the rice bran may dissolve in it and thereafter both are separated and rice bran oil is extracted from the rice bran so dissolved. The oil so extracted is used for manufacturing soap and is not fit for human consumption. The learned Judges have held that rice bran is neither an oilseed nor can it be regarded as vegetable as understood in the ordinary sense so as to be treated as an oil-bearing material of plant origin.

4. The Bombay High Court has referred to the objects underlying the Cess Act and the Development Board Act and after taking into consideration the said objects, the learned Judges have taken the view that rice bran oil was not intended to be covered by the expression of "vegetable oil" as defined in Section 3(h) of the Development Board Act.

5. It has been pointed out by Shri Nageswara Rao that the Cess Act was repealed in the year 1987.
6. Having regard to the object underlying the enactment of the Cess Act, viz., to make available funds to the National Oilseeds and Vegetable Oil Development Board so as to enable the said Board to promote the development and growth of oilseeds industry and vegetable oils industry and keeping in view the fact that rice bran is in the nature of a waste or a by-product obtained during the course of processing of rice in the rice mill and rice bran oil is obtained by the solvent extraction process and is not fit for human consumption, we are in agreement with the decisions of the Allahabad and Bombay High Courts referred to above that rice bran oil does not fall within the ambit of the definition of "vegetable oil" contained in Section 3(h) of the Development Board Act.
7. The appeal is, therefore, allowed and the impugned judgment of the High Court is set aside. The bank guarantees that have been furnished by the appellants in pursuance of the interim order passed by this Court shall stand discharged. As regards refund of the amount paid it will be open to the appellants to move the appropriate authority and if any such application is made, the same shall be considered in accordance with the principles laid down by this Court in *Mafatlal Industries Ltd. v. Union of India* [(1997) 5 SCC 536]. No order as to costs.