

SUPREME COURT OF INDIA

Indian Poultry

Vs.

Sales Tax Officer, Rajnandgaon

(S Bharucha, V Khare and A Misra JJ.)

19.11.1998

JUDGMENT

BHARUCHA, J.

1. Under appeal is the order of the Madhyu Pradesh High Court dismissing writ petitions filed by the appellants. The order states:

"In view of the decision of the Division Bench of this Court dated 6-11-1996 in ITR No. 3 of 1996, Indian Poultry v. CIT, (1998) 230 ITR 909 (MP), the matter is no longer res Integra. A similar controversy was raised in the said case and negating the contention this Court held that the process which is involved in developing of chicks into broilers did not bring about any change so as to produce a commodity having any new commercial identity. It was held that manufacture implies a change but every change is not manufacture and yet every change in an article is the result of some treatment, labour and manipulation."

2. The appellants are engaged in rearing broilers with the aid of technological and mechanical processes. They buy very young chicks. The chicks are reared over a period of five weeks under strict control of air, temperature, standardised feeding, medication and chemicals. The broilers that

result are sold.

3. One of the two appellants was registered as a manufacturer for the purposes of the Madhya Pradesh General Sales Tax Act, 1958 but the schedule of the registration certificate was later amended so as to exclude what was required for the purposes of rearing the broilers: The other appellant was refused registration as a manufacturer. These actions were taken on the basis that the rearing of chicks so that they became broilers was not "manufacture" within the meaning of the said Act. The said actions were challenged by the writ petitions which, as aforesaid, were dismissed.

4. The definition of "manufacture" is contained in Section 2(j) of the Act.

The definition of "goods" is contained in Section 2(g) thereof. They read thus:

"2. (j) 'manufacture' includes any process or manner of producing, collecting, extracting, preparing or making any goods, and in respect of trees which have been severed from the land or which have been felled, also the process of lopping the branches, cutting the trunks or converting them into logs, poles or baulies or any other articles of wood, but does not include such manufactures or manufacturing processes as may be prescribed;"

"2. (g) 'goods' means all kinds of moveable property other than actionable claims, newspapers, stocks, shares, securities or government stamps and includes all materials, articles and commodities, whether or not to be used in the construction, fitting out, improvement or repair of moveable or immovable property; and also

includes all growing crops, grass, trees, plants and things attached to, or forming part of, the land which are agreed to be severed before sale or under the contract of sale;"

By reason of Section 6(2)(a) a concessional rate of tax is payable on the sales of goods specified in Schedule II if they are to be used in the "manufacture or processing of goods".

5. Our attention was drawn by learned counsel for the appellants to the judgment of this Court dated 3-11-1998 in *Ashirwad Ispat Udyog v. State Level Committee*, . The judgment considered the definition of "manufacture" in Section 2(j) of the said Act and held:

"8. Decisions construing the meaning of the word 'manufacture' as used in other statutes do not

apply unless the definition of that word in the particular statute under consideration is similar to that construed in the decisions. The plain construction of the special definition of the word in a particular Act must prevail. In the special definition given in Section 2(j) of the said Act 'manufacture' has been defined as including a process or manner or producing, collecting, extracting, preparing or making any goods. There can be no doubt whatsoever that 'collecting' goods does not result in the production of a new article. There is, therefore, inherent evidence in the definition itself that the narrow meaning of the word 'manufacture' was not intended to be applied in the said Act. Again, the definition speaks of 'the process of lopping the branches (of trees), cutting the trunks'. The lopping of branches and the cutting of trunks of trees also, self-evidently, does not produce a new article. The clear words of the definition, therefore, must be given due weight and cannot be overlooked merely because in other contexts the word 'manufacture' has been judicially held to refer to the process of manufacture of new articles."

Learned counsel submitted, quite rightly having regard to this judgment, that the basis upon which the High Court had proceeded, that is. to say, its insistence on the production of a commodity having a new commercial identity, was misplaced. He submitted that rearing of the chicks until they produced marketable broilers was an act which fell within the definition of "manufacture" as contained in Section 2(j). The broilers were "goods" prepared for the market.

6. Learned counsel for the respondents submitted that broilers were not "goods"; for the purposes of the definition of "manufacture" in Section 2(j), but they were "goods" within the meaning of Section 2(g). This, in his submission, was because the levy of sales tax was not on "manufacture". For the purposes of Section 2(j), what was requisite was manufacture. Learned counsel drew our attention in this context to the judgment of this Court in *CST v. Coco Fibres*, , where the provisions of the Kerala Sales Tax Act were considered. This Court noted that the word "manufacture" had been defined under the Kerala Act and, therefore, what was relevant and considered was the meaning given to the word "manufacture" in common parlance.

7. As aforesaid, the said Act defines "manufacture", It defines "manufacture" in very wide terms, as has been analysed in the judgment in the case of *Ashirwad I spat*. There is inherent evidence in the definition that the narrow meaning of the word "manufacture" was not to be applied in the said Act.

8. What, therefore, has to be considered is whether the rearing of the chicks until they become marketable broilers is "manufacture" within the definition of that word in the said Act. Our attention was drawn by learned counsel for the respondents to the definition of the word "rear" in Webster's Dictionary, It is defined to mean "to breed and raise (an animal) for use or market". The definition of "manufacture" under Section 2(j) includes any manner of preparing goods. The preparing of any goods for the market is. therefore, for the purposes of this artificial definition, a process of manufacture,

9. It is difficult to see why, as was argued by learned counsel for the respondents, "goods" would not include animate objects for the purposes of Section 2(j) but would include animate objects for other purposes of the said Act. The definition of "goods" in Section 2(g) is in the definition section of the said Act. The same interpretation must, therefore, be placed upon the word "goods wherever it occurs in the said Act, What, to use the popular expression, is sauce for the goose is sauce for the gander.

10. In our view, therefore, the appellants are entitled to succeed having regard to the definition of the word "manufacture" in Section 2(j) of the Act.

11. The appeal is allowed. The order under appeal is set aside. The writ petitions filed by the appellants are made absolute to the extent aforestated.