

# SUPREME COURT OF INDIA

Commissioner of Sales Tax

Vs.

Ram Chandra Asha Ram (Dead) Through L. Rs.

(S R Babu and S Phukan JJ.)

07.03.2000

## ORDER

S. Rajendra Babu and S.N. Phukan, JJ.

1. In this case, the question raised before us is whether damaged wheat purchased by the original Respondent-dealer (hereinafter referred to as the Respondent-dealer) which is subjected to certain process before being sold is "cattle fodder" for the purpose of the Notification dated 5.6.85. The definition of cattle fodder reads as follows:

Cattle fodder including green fodder chuni, bhusi, chhilka, chokar, jave (popularly known as Gharjai), gowar, de-oiled cake, de-oiled rice polish, de-oiled rice bran or de-oiled rice husk, but not including oil cake (Khali) rice polish, rice bran or rice husk.

2. The High Court on examination of the material before it took the view that the dealer purchased from the Food Corporation of India, damaged wheat which is unfit for human consumption subject to the restriction to sell only on conversion into cattle fodder by grinding it. Based on this material, the High Court came to the conclusion that the expression "cattle fodder" includes the damaged wheat which is sold by the Respondent-dealer and thus his claim for exemption is allowed.

3. In this appeal, the learned Counsel for the Appellant contended that the definition of "cattle fodder" should be understood in the manner stated in the notification and even in ordinary sense with reference to the trade with which we are concerned, the cattle fodder would not include damaged wheat though it may be a feed for cattle. He submitted that all that is fed to cattle would not become fodder. He relied upon a decision in *Kalloomal Samaldas v. Commissioner of Sales Tax* 54 STC 103 wherein the provisions of the M.P. General Sales Tax Act, 1958 in so far as cattle feed is concerned came up for consideration. Shri Mahabir Singh, learned Counsel for the Respondent-dealer supports the view taken by the High Court.

4. What is exempted under the Notification of 5.6.85 is cattle fodder. In generic sense the expression "cattle fodder" is inclusive of everything that is fed to cattle including damaged wheat. In the decision relied on by the learned Counsel for the Appellant this aspect is noticed but in that particular case fodder was defined as "fodder except cotton seed and oil cakes". In the present case

there is no such exclusion of the damaged wheat that is processed and used as feed for the cattle. If that is so, we do not think that there is any justification to interfere with the view taken by the High Court. The appeal is dismissed. However, in the circumstances of the case there shall be no order as to costs.