

SUPREME COURT OF INDIA

I.T.C. Agro Tech. Ltd.

Vs.

Commercial Tax Officer

C.A.No.6362 of 1998

(S.P. Bharucha, Y.K. Sabharwal and Brijesh Kumar JJ.)

25.07.2001

JUDGMENT

S.P. Bharucha, J.

1. Leave granted in the special leave petitions.
2. These appeals call for the interpretation of Entry 24-B of the First Schedule to the *Andhra Pradesh General Sales Tax Act, 1957*.
3. The controversy would be clearer if both Entries 24-A and 24-B are reproduced. They read thus:

S. No.	Description of Goods	Point of Levy	Rate of Tax	Effective date from	24 -A	Vegetable oils (non- refined) including groundnut, palm oil, sunflower oil, soya bean oil, mustard oil, kusum oil, tobacco seed oil, castor oil, washed cotton see	At the point of first sale in the State	Pais in rupee	16.8.9 5	24 -B	Vegetable oil (refined) obtained from non- refined oil mentioned in item 24A other than rice bran oil (1205)	- do -	- do -	16.8.9 5
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oil other
than rice
bran oil
and
coconut
oil (1204)

4. The Government of Andhra Pradesh issued a circular on 16th September, 1997 in regard to Entry 24B. It said : "Since there is a specific mention of the non refined oils which are linked to refined oil in item 24-B the only interpretation that can be offered is that the concessional rate of 2% is applicable only to those oils which are obtained from one refined oils subject to tax under Entry 24-A of 1st Schedule. Imported refined oils are, therefore, taxable at 10% under VII Schedule." The same interpretation was reiterated on 10th November, 1997 by the office of the Commissioner of Commercial Taxes.

5. The two circulars aforementioned and assessments on that basis were impugned in writ petitions filed before the High Court of Andhra Pradesh. The two circulars were struck down, and there is no challenge to that part of the order. however, the High Court went on to interpret Entries 24-A and 24-B and said, "Item 24-b lays down that all refined vegetable oils obtained from non-refined oil mentioned in item 24-A other than rice bran oil are subject to tax at the rate of 2%. So, there is a condition laid down that only those refined vegetable oils are taxable at 2% which have suffered tax in the non refined capacity under item 24-A. Those refined vegetable oils which have not suffered tax under item 24-A have been excluded from the application of 24-B." This interpretation of Entry 24-B of the High Court is impugned in the appeals before us.

6. Learned counsel for the appellants stressed the word `mentioned' used in Entry 24-B and submitted that it only signified that Entry 24-B applied to all vegetable oil (refined that were obtained form non-refined oil of the kind described in Entry 24-A. The word `mentioned' could not be equated with the words `that has suffered tax' under Entry 24-A. Our attention was drawn to the fact that where the intention was to apply an e try in the Schedule only to articles that had suffered tax under the Act, the entry so stated; as for example, Entry 58, which read, "Betel-nut power obtained form arecanut that has met tax under this Act". It was also pointed out that the very Entry 24, before it was amended, has used the words "if it had met tax under the Act' and these words did not occur in the amended Entries 24-A and 24-B.

7. Learned counsel for the State supported the decision of the High Court and submitted that, given the words of Entry 24-B, only that vegetable oil (refined) which was obtained from non-refined oil that had suffered tax under Entry 24-A could be taxed at the rate of two per cent. Vegetable oil (refined) obtained from non-refined oil which had not suffered tax under Entry 24-A fell within the residuary entry of the Schedule and was liable to tax at the rate of ten per cent.

8. In our view, the words used in Entry 24-B plainly indicate that it is applicable to all vegetable oil (refined) that is obtained from the kinds of non-refined oil that are described in

Entry 24-A, that is, from non-refined oil other than rice bran oil. The word 'mentioned' only means "described" or "set forth" and no more. There was, therefore, no justification for the conclusion that only vegetable oil (refined) obtained from non-refined oil that had been subjected to tax under Entry 24-A could be taxed at there ate of 2 paise. Further, where the Schedule intended to refer to goods which were made from inputs that had suffered tax under the Act, the Schedule so stated. Yet again, the fact that, before its amendment, Entry 24-A had used the words 'if it had met tax under the Act' and these words were omitted after the amendment shows that the construction that we have placed upon Entry 24-B is correct.

9. In this view of the matter, the civil appeals are allowed. The judgments and orders under challenge are set aside. The orders of assessment made on the basis of the interpretation placed by the State on Entry 24-B are set aside.

10. Having regard to the relief so granted, the State shall refund to the appellants the sums deposited by them as a condition of stay. This shall be done within twelve weeks.

11. The appellate Courts shall pay to the appellants the costs of the appeals.