

Kalyan Roller Flour Mills (P) LTD

v.

Commissioner of Commercial Taxes, Andhra Pradesh

(Supreme Court Of India)

HON'BLE MR. JUSTICE H.L. DATTU HON'BLE MR. JUSTICE DIPAK
MISRA HON'BLE MR. JUSTICE S.A. BOBDE

Civil Appeal No. 7830 Of 2004 - 7831 Of 2004 | 09-01-2014

1. These appeals are directed against the judgment and order passed by the High Court of Judicature of Andhra Pradesh at Hyderabad in Special Appeal Nos.12 and 13 of 1995, dated 16.10.2003, whereby and where under, the High Court has dismissed the appeals of the appellant and upheld the orders passed by the Revisional Authority, dated 07.01.1995.

2. Short facts of this case are: the appellant is running a roller flour mill. It is registered under the provisions of the Andhra Pradesh General Sales Tax Act, 1957 (for short the Act) and the Central Sales Tax Act, 1956.

3. The Assessing Authority for the assessment years 1991-92 and 1992-93 had quantified the tax liability of the appellant assessee on the first sale of wheat and wheat products and the sale of flour by orders dated 22.04.1993 and 11.01.1994, respectively. The appellant had claimed before the Assessing Authority that it is exempted from payment of sales tax by virtue of the notification issued by the State Government in G.O.Ms.No.377 (for short the first notification), dated 02.05.1991, which provides for exemption of levy of tax payable under the Act on the sale or purchase of wheat and wheat products by the roller flour mills within the State for a period of five years.

4. Aggrieved by the order so passed by the Assessing Authority, the assessee had carried the matter by way of appeals before the Appellate Deputy Commissioner (CT), Kurnool. The Appellate Deputy Commissioner has allowed the appeals and has set aside the orders of assessment passed by the Assessing Authority for the assessment years 1991-92 and 1992-93 by the orders dated 29.06.1993 and 31.01.1994, respectively.

5. The Revisional Authority, being of the opinion that the order passed by the First Appellate Authority is erroneous and prejudicial to the interest of the Revenue had initiated proceedings by invoking Section 20(1) of the Act, inter alia, directing the appellant to show cause as to why should the orders passed by the Appellate Authority be not set aside and the orders passed by the Assessing Authority be restored. After receipt of the reply to the show cause notice so issued, the Revisional Authority has observed that though the language of the first notification is clear and unambiguous, it would defeat the object of issuance of the notification, i.e., to encourage flour milling activities in the State and that such object not be resorted to while interpreting the notification; it would create unnatural and impermissible distinction between the sale activities of the dealers who own a roller flour mill but sell wheat and wheat products not manufactured by them and dealers who do not own a roller flour mill and are engaged in sale of wheat and wheat products not manufactured by them; the first being exempted from tax and the second not being exempt under the notification and therefore, held that the exemption in the first notification is not applicable to the appellant-assessee and that the appellate authority was not justified in allowing the appeal of the assessee for the assessment years 1991-92 and 1992-93, by order dated 07.01.1995.

6. Consequent upon the aforesaid order, the Assessing Authority has revised the gross and net turnover of the assessee and calculated the sales tax to be paid by the assessee for the assessment years 1991-92 and 1992-93 by orders dated 08.02.1995 and 09.02.1995, respectively.

7. The assessee being aggrieved by the aforesaid order had approached the High Court in Special Appeal Nos.12 and 13 of 1995. The High Court by the impugned judgment and order has liberally interpreted the first notification and modified the language employed therein so as to achieve the intention behind the issuance of the said notification and held that the exemption stipulated under the first notification is not applicable and available to the assessee and thus, rejected the appeals and confirmed the orders passed by the Revisional Authority, dated 16.10.2003.

8. We have heard learned counsel for the parties to the lis and perused the documents on record.

9. In order to resolve the controversy between the parties, at the outset, it would be useful to notice and refer to the first notification. The said notification is issued by the State Government, in exercise of its powers under sub-section (1) of Section 9 of the Act. The said notification reads as under:

"THE ANDHRA PRADESH GAZETTE

PART-II-EXTRA ORDINARY

PUBLISHED BY AUTHORITY

No.121 HYDERABAD, THURSDAY, MAY 2, 1991

NOTIFICATIONS BY GOVERNMENT

REVENUE DEPARTMENT

(CT-II)

EXEMPTION OF ROLLER FLOUR

MILLS FROM PAYMENT OF SALES

TAX ON WHEAT AND WHEAT PRODUCTS UNDER ANDHRA
PRADESH

GENERAL SALES TAX ACT, 1957.

[G.O.MS.NO.377, Revenue (CT-II), 2nd May, 2001]

In exercise of the powers conferred by sub-section (1) of Section 9 of the Andhra Pradesh General Sales Tax Act, 1957 (Andhra Pradesh Act No.VI of 1957), the Governor of Andhra Pradesh hereby exempts from the levy of tax payable under the said Act on the sale or purchase of wheat and wheat products by the Roller Flour Mills within the State for a period of five years with effect on and from the date of publication of this notification in the Andhra Pradesh Gazette."

10. The language of the notification is crystal clear. That means, there is no ambiguity in the language employed in the notification by the authority issuing the notification. A plain reading of the notification would demonstrate that the Governor of Andhra Pradesh, in exercise of his powers under sub-section (1) of Section 9 of the Act, has exempted levy of tax payable under the Act on the sale or purchase of wheat and wheat products by the roller flour mills within the State for a period of five years from the date of the notification, namely, 02.05.1991.

11. The Revisional Authority as well as the High Court accept that the language of the notification is clear, but resort to interpreting the notification in light of the intention behind its issuance and proceed on the presumption that the State Government was made to issue the aforesaid notification in order to give an advantage to the dealers in the State of Andhra Pradesh who deal in sale or purchase of wheat and wheat products. According to the Revisional Authority as well as the High Court a roller flour mill would be entitled for exemption only if firstly, it manufactures a product from wheat that they purchase from the Food Corporation of India and secondly, if it effects the sale of such product.

12. This Court has reiterated in numerous decisions that if the language of the notification or an executive order is clear and unambiguous, the Courts need not presume anything on the issuance of such notification or order need or delve into the intention behind issuance of such notification or order. When the language is clear and plain, Courts cannot enlarge their scope by interpretative purposes. (H.H. Sri Rama Verma v. Commissioner Income Tax, 1991 Supp (1)

SCC 209; Maharashtra State Financial Corpn. v. Jaycee Drugs and Pharmaceuticals (P) Ltd., (1991) 2 SCC 637).

13. It was said more than seven decades ago by Lord Mersey in *Thompson v. Good and Company*, (1910) AC 409:

"It is a strong thing to read into an Act of Parliament words which are not there and in the absence of clear necessity, it is a wrong thing to do."

Lord Loreborn, L.C. also observed in *Vickers, Sons and Maxim Limited v. Evans*, (1910) AC 444:

"We are not entitled to read word into an Act of Parliament unless clear reason for it is to be found within the four corners of the Act itself."

14. In *Assessing Authority-cum-Excise and Taxation Officer v. East India Cotton Mfg. Co. Ltd.*, (1981) 3 SCC 531, this Court had reiterated the aforesaid proposition and observed that in ordinary course when the language of a statutory provision is plain and unambiguous, there is no need to resort to the object and purpose of the enactment because in such a case, the language best declares the intention of the law-giver.

15. In *Oswal Agro Mills Ltd. v. CCE*, 1993 Supp (3) SCC 716, this Court has observed that:

"Where the words of the statute are plain and clear, there is no room for applying any of the principles of interpretation which are merely presumption in cases of ambiguity in the statute. The court would interpret them as they stand. The object and purpose has to be gathered from such words themselves. Words should not be regarded as being surplus nor be rendered otiose. Strictly speaking there is no place in such cases for interpretation or construction except where the words of statute admit of two meanings. The safer and more correct course to deal with a question of construction of statute is to take the words themselves and arrive, if possible, at their meaning, without, in the first place, reference to cases or theories of construction."

16. In *CST v. Modi Sugar Mills Ltd.*, (1961) 2 SCR 189, this Court has observed as follows:

"In interpreting a taxing statute, equitable considerations are entirely out of place. Nor can taxing statutes be interpreted on any presumptions or assumptions. The court must look squarely at the words of the statute and interpret them. It must interpret a taxing statute in the light of what is clearly expressed: it cannot imply anything which is not expressed; it cannot import provisions in the statutes so as to supply any assumed deficiency."

17. As we have already noticed, both the Revisional Authority as well as the High Court has proceeded on the assumption that it is on the representation made by the roller flour mills to grant them exemption on the sale of wheat products, the aforesaid notification has been promulgated by the State Government. That may be true, but since the language itself does not indicate such intention or speak of anything to point towards such suggestion, we cannot presume that the State Government was constrained to issue the aforesaid notification on the representations made by the roller flour mill owners.

18. In order to support our thinking, we have looked into the subsequent notification issued by the State Government in G.O.Ms.No.561, dated 26.03.1993. By the said subsequent notification, the State Government has found irregularities in the earlier notification and therefore thought it fit to withdraw the earlier notification. In light of such facts, in our considered opinion, neither the Revisional Authority nor the High Court is justified in going into the intention of the State Government for issuing the first notification.

19. In view of the above, we cannot sustain the orders passed either by the Revisional Authority or the High Court. Accordingly, we allow these appeals, set aside the orders passed by the Revisional Authority and the High Court and restore the order passed by the First Appellate Authority.

20. We make it clear that the relief that is granted by us is confined only to the appellant before us.

21. It is also made clear that the claim of the appellant is restricted from the date of issuance of the first notification till its withdrawal i.e. 26.03.1993.

22. Ordered accordingly.