

Laxmi Chand Badri Narain

Vs.

Commissioner of Sales Tax, M. P

Misc. Civil Case No. 156 of 1969, decided on 10.8.1970. against order of the Board of Revenue, M.P. Gwalior

(Bishambhar Dayal, C.J. and S.P. Bhargava, J.)

19.01.1968. 10.08.1970

JUDGMENT

Bishambhar Dayal, C.J.

1. The judgment in this case shall govern the disposal of Miscellaneous Civil Case No. 157 of 1969.

2. These are two references under Section 44 (1) of the MP General Sales Tax Act, 1958. The assessee is engaged in dehusking paddy and, after polishing it, converting it into rice, and converting other grains into dal and thereafter selling them. The assessee was assessed to tax on the basis that this amounted to a process of manufacture and the assessee challenged the correctness of that decision.

3. The questions referred in this case are as follows :-

(i) Are paddy and other grains before dehusking raw material as defined under Section 2 (1) of the Madhya Pradesh General Sales Tax Act, 1958?

(ii) Does dehusking of paddy into rice or of other grains into dal amount to manufacture within the meaning of Section 2 (j) of the Madhya Pradesh General Sales Tax Act, 1958?

(iii) Whether on the facts and the circumstances of the case levy of tax under Section 7 read with Section 8 (1) of the Act is legal?

4. Section 2 (j) of the Act which defines "manufacture" after the latest amendment, which is applicable to the case, is as follows:-

“‘Manufacture’ includes any process or manner of producing, collecting,

preparing or making any goods; but does not include such manufactures or manufacturing processes as may be prescribed."

It will be seen from this definition that even goods collection and then making them marketable amount to "manufacture" or even preparing the goods is defined as a process of manufacture. What the assessee does is to dehusk the paddy, polish the rice and then make it useful for human consumption and marketable. In respect of other grains, the assessee grinds them and breaks them into dal. In this process the article which the assessee manufactures is entirely different from that which it originally purchased. In the case of paddy it becomes rice. Paddy was absolutely useless for human consumption as it was and it becomes an eatable article only after it has been dehusked and polished. In the case of other grains, raw grains as they are purchased by the assessee, are changed into dal or broken grain and it is only in the shape of dal that they are used in the market and for human consumption as food. From the language of this definition, it is quite clear that these processes amount to "manufacture".

5. Learned counsel contended that the idea of manufacture involves within itself the idea that the thing originally purchased must after manufacture become entirely different and, therefore, a different article. He contended that this position was made clear by Section 7 which states among other things:

"and either consumes such goods in the manufacture of other goods for sale....."

Process of manufacture, according to learned counsel, relevant for the purpose would, therefore, be where the assessee consumes the original goods which he purchases and then manufactures them into other goods which are for sale. His contention is that when paddy is purchased and it is dehusked and made into rice, it cannot be said that it is thus manufactured into other goods and that the original goods, namely, paddy, was consumed by this process of manufacture. We are unable to agree with learned counsel that paddy as it was purchased remained paddy even after dehusking and conversion into rice. We think that paddy is completely destroyed as paddy and it is, therefore, consumed in the process of manufacture when rice is prepared. So also, other grains when they are ground into dal completely lose their original identity and become different article, namely, dal. In this view of the matter, we think that the

decision of the sales-tax department on this question was correct.

6. Our answers to the questions referred are :-

(i) Paddy and other grains before dehusking are raw material as defined under Section 2 (1) of the Madhya Pradesh General Sales Tax Act, 1958.

(ii) Dehusking of paddy into rice or of other grains into dal amount to 'manufacture' within the meaning of Section 2 (j) of the Madhya Pradesh General Sales Tax Act, 1958.

(iii) On the facts and in the circumstances of the case levy of tax under Section 7 read with Section 8 (1) of the Act is legal.

Parties shall bear their own costs of these references.

References answered.