

PETITIONER:
D.H. BROTHERS PVT. LTD.

Vs.

RESPONDENT:
COMMISSIONER OF SALES TAX, U.P. LUCKNOW

DATE OF JUDGMENT 08/08/1991

BENCH:
KULDIP SINGH (J)
BENCH:
KULDIP SINGH (J)
RAMASWAMY, K.

CITATION:
1991 AIR 1992 1991 SCR (3) 423
1991 SCC Supl. (2) 71 JT 1991 (3) 378
1991 SCALE (2) 270

ACT:

U.P. Sales Tax Act, 1948: Section 4--Exemption from tax--Notification dated 14.11.1980--Amending the list of agricultural implements--Sugarcane crusher (Kohlu)--Whether "agricultural implement" and hence exempt from levy of sales tax.

Administrative Law: Legislative intention--Taxing statute--Various items mentioned in one group to be considered in a generic sense--Courts to give the meaning as intended by the framers in the statute.

HEADNOTE:

The appellant, a registered dealer under U.P. Sales Tax Act, 1948 has been selling machinery including sugarcane crusher. The State Government was issuing Notifications from time to time exempting agricultural implements from the levy of sales tax. The State Government by its Notification dated 14.11.1980 amended the list and enumerated agricultural implements. Since sugarcane crusher (Kohlu) was not included therein, the appellant claimed before the Sales tax Commissioner that the Kohlu meant for extracting juice from sugarcane was an agricultural implement and as such was exempt from levy of sales tax. Since the Commissioner negatived his claim, the appellant preferred an appeal before the Sales Tax Tribunal.

The Tribunal having upheld the findings of the Commissioner, the appellant filed a revision petition before the High Court. Relying on its earlier decision, the High Court dismissed the revision petition. Aggrieved by the High Court's decision, the appellant has preferred the present appeal.

Dismissing the appeal, this Court,

HELD: 1. The agricultural process comes to an end when the crop is harvested and is brought home for marketing or for further processing. Preparation of gur from Sugarcane is not the continuation of the agricultural process. [427D-E]
424

Bharat Engineering and Foundry Works v. The U.P. Government, [1963] 14 S.T.C. 262 and Commissioner of Income-tax, West Bengal, Calcutta v. Raja Benoy Kumar Sahas Roy, [1957] 32 I.T.R. 466, relied on.

2. While giving meaning to an item in a taxing statute the Courts should give it a meaning as intended by the framers of the statute by looking at the various items mentioned in a particular group. The items in one group should be considered in a generic sense. [427F]

3. In the instant case the notification dated November 14, 1980 includes various items under the head "agricultural implements". The said definition cannot be confined to the various implements specifically mentioned therein. The definition being inclusive it has a wider import and any other implement which answers the description of an agricultural implement can be included in the definition. A bare reading of the notification shows that all the implements mentioned by the name after the word "including....." are by and large those which are used for cultivation of land and other operations which foster the growth and preserve the agricultural produce. None of these implements can be worked after the agricultural process in respect of a crop comes to an end. Therefore the intention of the framers of the notification could only be to limit the general words in the notification to the implements of the same kind as are specified therein. As such sugarcane crushers do not come within the definition of agricultural implements. [427F-H; 428A-B]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 5047 (NT) of 1985.

From the Judgment and Order dated 17.7. 1985 of the Allahabad High Court in Sales Tax Revision No. of 1985. Madan Lokur for the Appellant.

Ashok K. Srivastava for the Respondent.

The Judgment of the Court was delivered by

KULDIP SINGH, J- The short question for our consideration in this appeal is whether a sugarcane crusher (kohlu) is an "agricultural
425

implement" Within the meaning Of U.P. Government notification dated November 14, 1980 and as such is exempt from levy of Sales Tax.

M/s. D.H. Brothers Pvt. Ltd., a registered dealer under the U.P. Sales Tax Act, is engaged in the sale of machinery including sugarcane crushers. After coming into force of the Uttar Pradesh Sales Tax Act, 1948 (hereinafter called 'the Act') the State Government issued a notification dated June 7, 1948 exempting agricultural implements from the levy of sales tax. Thereafter fresh notifications were issued from the time to time. The relevant notification dated November 14, 1980 enumerated the "Agricultural implements" as under:

"Agricultural implements" worked by human or animal power, including Khurpi, Dibbler, Spade, Hansla (Sickle) Garden Knife, Axe, Gandasa, Chaff Cutters, Shears, Secateurs, Rake, Shovel, Ploughs, Water lifting leather buckets (Pur and Mhot), Rahat and persian whell, Chain Pump, Harrows, Hoes, Cultivators, Seed Drills, Threshers, Shellers, Winnowing fans, Paddy weeders, Gardenfork, Lopper), Belcha, Bill Hook (Double edge), Kudali, Fork, garden Hatchet, Bill Hook (Single edge), Hay Bailer, Bund formers, Scrappers, Levellers or Levelling Karahas, Yokes, crop yield Judginghoops, Hand sprayers Hand dust-

ers, Animal driven vehicles including carts having pneumatic tyre wheels, crow bars, sugarcane Planters and accessories, attachments and spare parts of these agricultural implements".

The assessee invoked the jurisdiction of Commissioner, Sales Tax, Uttar Pradesh under Section 35 of the Act claiming that the Kohlu meant for extracting juice from sugarcane was an agricultural implement within the above quoted notification and as such was exempt from levy of Sales Tax. The Commissioner by his order dated December 31, 1983 decided the question against the assessee. The assessee filed appeal against the said order before the Sales Tax Tribunal. Lucknow Bench, under Section 10 of the Act. The Tribunal upheld the findings of the Commissioner and dismissed the appeal. Thereafter the assessee preferred a revision petition under Section 11 of the Act before the Allahabad High Court. The High Court relying on its earlier decision in Bharat Engineering and Foundry Works v.

426

The U.P. Government, [1963] 14 S.T.C. 262 dismissed the revision petition. In that case the question for consideration before the High Court was "whether cane crushers are agricultural implements within the meaning of the words 'agricultural implements' as mentioned in the Government Notification..... and hence exempt from U.P. sales tax." The question was answered in the negative on the following reasoning:

"Cane crushers and boiling pans are used only in the manufacture of gur from sugarcane. Sugarcane is an agricultural produce and the process which results in the production of sugarcane is undoubtedly agriculture, but the production of gur from sugarcane is a manufacturing process and not an agricultural process. The agricultural process comes to an end with the production of sugarcane and when gur is subsequently being prepared it is manufacturing process that commences. Merely because sugarcane is an agricultural produce anything that is done to it after it is product is not necessarily a continuation of the agricultural process. It cannot be doubted that agricultural produce can be subjected to a manufacturing process; merely because gut is produced out of sugarcane which is an agricultural produce, the process of preparing gut does not become an agricultural process..... An agricultural implement is an implement that is used in agriculture; any implement that is used after the agricultural process comes to an end and a manufacturing process commences, is not an agricultural implement."

The High Court in Bharat Engineering case relied upon the following observations of this Court in Commissioner of Income-tax, West Bengal, Calcutta v. Raja Benoy Kumar Sahas Roy, [1957] 32 I.T.R. 466:

"Agriculture is the basic idea underlying the expressions 'agricultural purposes' and 'agricultural operations' and it is pertinent therefore to enquire what is the connotation of the term 'agriculture'. As we have noted above, the primary sense in which the term agriculture is understood is agar-field and

cultracultivation, i.e., the cultivation of the field, and if the term is understood only in that sense agriculture would be restricted only to cultivation of the

427

land in the strict sense of the term meaning thereby, tilling of the land, sowing of the seeds, planting and similar operations on the land. They would be the basic operations and would require the expenditure of human skill and labour upon the land itself. There are however other operations which have got to be resorted to by the agriculturist and which are absolutely necessary for the purpose of effectively raising the produce from the land. They are operations to be performed after the produce sprouts from the land, e.g., weeding, digging the soil around the growth, removal of undesirable undergrowths and all operations which foster the growth and preserve the same not only from insects and pests but also from deprecation from outside, tending, pruning, cutting, harvesting, and rendering the produce fit for the market. The latter would all be agricultural operations when taken in conjunction with the basic operations above described, and it would be futile to urge that they are not agricultural operations at all....."

It is clear from the above quoted observations of this Court that the agricultural process comes to an end when the crop is harvested and is brought home for marketing or for further processing. In the present case the agricultural process finishes when sugarcane is harvested. Preparation of gur from sugarcane is not the continuation of the agricultural process.

While giving meaning to an item in a taxing statute the Courts should give it a meaning as intended by the framers of the statute by looking at the various items mentioned in a particular group. The items in one group should be considered in a generic sense. The notification dated November 14, 1980 includes various items under the head "agricultural implements". It is no doubt correct that the said definition cannot be confined to the various implements specifically mentioned therein. The definition being inclusive it has a wider import and any other implement which answers the description of an agricultural implement can be included in the definition. A bare reading of the notification, however, shows that all the implements mentioned by name after the word "including....." are by and large those which are used for cultivation of land and other operations which foster the growth and preserve the agricultural produce. None of these implements can be worked after the agricultural process in respect of a crop comes to an end. Therefore the intention of the framers of the

428

notification could only be to limit the general words in the notification to the implements of the same kind as are specified therein. We are, therefore, of the view that on the plain reading of the notification the sugarcane crushers do not come within the definition of agricultural implements.

It has been brought to our notice that from 1985 onwards the State Government has specifically exempted sugarcane crushers from the levy of sales tax.

We dismiss the appeal with no order as to costs.

G.N.
missed.
429

Appeal dis-

JUDIS