

AVADH SUGAR MILLS LTD.

v.

THE SALES TAX OFFICER, SITAPUR & ANOTHER

February 22, 1973

[K. S. HEGDE, P. JAGANMOHAN REDDY AND H. R. KHANNA, JJ.]

U.P. Sales Tax Act 1948—Purchase tax on oilseeds—Groundnuts whether oilseeds.

The petitioner appellant purchased groundnuts mostly from cultivators for the manufacture of oil. Relying on decisions of the Madhya Pradesh and Punjab High Court he contended that groundnuts were not oilseeds and thus not liable to be subjected to purchase-tax under the U.P. Sales Tax Act. The Allahabad High Court rejected the contention. In appeal by certificate,

HELD : In finding out the true meaning of term 'oilseeds' found in the Sales-Tax law in question the Court must refer not to the dictionary meaning but the meaning ascribed to the term in commercial parlance. There can hardly be any doubt that in commercial circles groundnut is dealt with as oilseed. The commercial journals refer to groundnuts as a species of oilseeds. [547D-F]

Commissioner of Sales Tax, Madhya Pradesh, Indore v. Jaswant Singh Charan Singh, (19 S.T.C. 469), relied on.

A seed is one which germinates. It is not disputed that the groundnut germinates. Hence it is undoubtedly seed. It is mostly used for the manufacture of groundnut oil which is an edible oil. The decision relied on by the appellant must accordingly be held to be wrong and the appeal must be dismissed. [547F-G]

Commissioner of Sales Tax, Madhya Pradesh, Indore v. Bakhat Rai & Co. (18 S.T.C. 285) and *Hans Raj Choudhri v. J. S. Rajyana, Excise and Taxation Officer*, (19 S.T.C. 489), disapproved.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1352 of 1970.

Appeal by certificate from the judgment and order dated 7th day of August 1967 of the Allahabad High Court in Special Appeal No. 94 of 1967.

M. C. Chagla, Suresh Sethi, R. K. Maheshwari, Maya Krishan and B. P. Maheshwari, for the appellant.

N. D. Karkhanis and O. P. Rana, for the respondents.

The Judgment of the Court was delivered by

HEGDE, J.—This is an appeal by certificate. The only question that arises for decision is whether groundnut is oilseed. The High Court has come to the conclusion that the groundnut is oilseed. The question is to the nature of groundnut came up for consideration in connection with the levy of purchase-tax on the purchase of oilseed. The assessee in this case is a manufacturer of oil and the assessee appears to have purchased groundnuts in

- A large quantity for the manufacture of oil. He contended before the assessing authorities as well as before the High Court, unsuccessfully, that groundnut is not oilseed. In support of that contention, he relied on the decision of the Madhya Pradesh High Court in *Commissioner of Sales Tax, Madhya Pradesh, Indore v. Bakhat Rai & Co.* (18 S.T.C. 285) and the decision of a single Judge of Punjab & Haryana High Court in *Hans Raj Choudhri v. J. S. Rajyana, Excise and Taxation Officer* (19 S.T.C. 489). These two decisions undoubtedly support his contention. The learned Judge of the Allahabad High Court have not accepted those decisions as laying down the law correctly and we are in agreement with the view taken by the learned Judges of the Allahabad High Court.

The petitioner in his Writ Petition has definitely stated that he purchased groundnuts mostly from cultivators for the manufacture of oil. Hence there is no doubt that he purchased groundnut for the purpose of manufacturing oil.

- D We shall now proceed to consider whether groundnuts are seeds and further whether they are oilseeds. In finding out the true meaning of term "oilseeds" found in the Sales-tax law in question, we are not to refer to dictionaries. We are to find out the meaning ascribed to that term in commercial parlance. See the decision of this Court in *Commissioner of Sales Tax, Madhya Pradesh, Indore v. Jaswant Singh Charan Singh* (19 S.T.C. 469).
- E There can hardly be any doubt that in commercial circles groundnut is dealt with as oilseed. The commercial journals and newspapers while quoting the market price of oilseeds list groundnuts as one of the species of oilseeds. From this, it is clear that in commercial circles groundnut is treated as oilseed.

- F A seed is one which germinates. It is not disputed that the groundnut germinates. Hence it is undoubtedly seed. The next question is whether it is generally used for manufacture of oil. Here again, there can hardly be any doubt that groundnut is mostly used for the manufacture of groundnut oil which is used in the manufacture of Dalda and other cooking media. Groundnut is one of the items which is mostly used in this country for the manufacture of cooking media.

In our opinion, both the Madhya Pradesh High Court and the Punjab & Haryana High Court were wrong in holding that groundnut is not oilseed.

- H For the reasons mentioned above, this appeal is dismissed with costs.