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STATE OF KARNATAKA

v.

B. RAGHURAMA SHETTY ETC.

March 24, 1981

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[V.D. TULZAPURKAR, E. S. VENKATARAMIAH AND A. N. SEN, JJ.]

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Karnataka Sales Tax Act, 1957 Section 6(i) Paddy—and rice—Whether distinct commodities—Milling of Paddy—whether involves manufacturing process—Consumption—meaning of.

The assessees (respondents) are the owners of rice mills and are registered dealers under the Karnataka Sales Tax Act, 1957. In the course of their business, they purchase paddy and after milling paddy, sell the resultant rice. During the assessment years, the assessees purchased paddy from agriculturists who were not liable to pay sales tax. The assessing authority under the Act levied on the assessee in each of these cases purchase tax on the purchase turnover

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of paddy under section 6(i) of the Act. The appeals filed by the assessees were dismissed by the Appellate Authority except the one, holding that the conversion of paddy into rice did not involve any manufacturing process and that the purchase turnovers of paddy in those cases were not liable to tax under section 6(i) of the Act. In the case of the other assessee, the Tribunal held that the turn over was liable to be taxed as he had manufactured milled rice out of the paddy purchased by him.

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The appellant filed revision petitions in the High Court and the assessee filed revision petition in the last case. The High Court after holding that the turn overs in question were not liable to tax under section 6(i) of the Act dismissed the petitions filed by the appellant and allowed the petition of the last assessee. The High Court granted a certificate of fitness to this Court.

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The appellant argued that the sale price of paddy which is a taxable commodity having not been subjected to tax under section 5, the assessees were liable to tax under section 6(i) of the Act as they had consumed it in the manufacture of rice which was a different commodity for sale. The respondent argued that they had not consumed paddy when they produced rice from it by merely carrying out the process of dehusking at their mills.

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Allowing the appeals,

HELD : 1. (i) Paddy and rice are two distinct commodities. The milling of paddy involves a manufacturing process. [284 B]

(ii) The levy in question is not impermissible even though paddy and rice

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are liable to be taxed at a single point, as in fact there is no double taxation on the same commodity. [286 F-G]

Ganesh Trading Co. Karnal v. *State of Haryana and Anr.* 32 S.T.C. 623, *Babu Ram Jagdish Kumar and Co.* v. *The State of Punjab and Anr.* 44 S.T.C. 159 affirmed.

2. Consumption in the true economic sense does not mean only use of goods in the production of consumer goods or final utilisation of consumer goods by consumers involving activities like eating of food, drinking of beverages, wearing of clothes or using of an automobile by its owner for domestic purposes. A manufacturer also consumes commodities which are ordinarily called raw materials when he produces semifinished goods which have to undergo further processes of production before they can be transformed into consumer goods. At every such intermediate stage of production, some utility or value is added to goods which are used as raw materials and at every such stage the raw materials are consumed. [284 D-E]

3. At every stage of production there is consumption of goods even though at the end of it there may not be final consumption of goods but only production of goods with higher utility which may be used in further productive processes. [285 B-B]

M/s. Anwar Khan Mahboob Co. v. *The State of Bombay and Ors.* [1961] 2 S.C.R. 709 at pp. 715-716; Economics (Tenth Edition 1976) at page 168 by Professor Paul A. Samuelson, referred to.

In the instant case, the assessees had consumed that paddy purchased by them when they converted it into rice which is commercially a different commodity for sale. The case of assessees therefore, squarely falls under section 6(i) the Act. [286 C]

State of Tamil Nadu v. *M. K. N. Kandaswami etc. etc.* [1976] 1 S.C.R. 38, *Ganesh Prasad Dixit* v. *Commissioner of Sales Tax,* [1969] 3 S.C.R. 490, referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 1801-1805 of 1975.

From the Judgments and Orders dated the 27th January and 3rd February 1975 of the Karnataka High Court at Bangalore in STRPs Nos. 14, 15, 19, 26 & 32 of 1974.

N. Nettar for the Appellant.

J. Ramamurthy and *Miss R. Vaigai* for the Respondent.

Ex-parte Respondents in CAs 1801-1803 & 1805/75.

The Judgment of the Court was delivered by

VENKATARAMIAH, J. The question which arises for consideration in these appeals by certificate is whether the respondents (here-

A inafter referred to as 'the assessees') are liable to pay purchase tax under section 6(i) of the Karnataka Sales Tax Act, 1957 (hereinafter referred to as 'the Act') on the turnover consisting of the price paid by them for purchasing paddy for the purpose of converting it into rice for sale, in their respective rice mills.

B The assessees are owners of rice mills in the State of Karnataka and are registered dealers under the Act. In the course of their business, they purchase paddy and after milling paddy sell the resultant rice. During the assessment years, the assessees purchased paddy from agriculturists who were not liable to pay sales tax. The assessing authority under the Act levied on the assessee in each of C these cases purchase tax on the purchase turnover of paddy under section 6(i) of the Act. The appeals filed by the assessees against the said assessments were dismissed by the appellate authority. The Karnataka Sales Tax Appellate Tribunal allowed the appeals filed by the assessees against the orders of the appellate authority except the one filed by the assessee who is the respondent in Civil D Appeal No. 1805 of 1975 holding that the conversion of paddy into rice did not involve any manufacturing process and that the purchase turnovers of paddy in those cases were not liable to tax under section 6(i) of the Act. In the case of the assessee who is the respondent in Civil Appeal No. 1805 of 1975, the Tribunal held E that the turnover was liable to be taxed as he had manufactured boiled rice out of the paddy purchased by him. Aggrieved by the decisions of the Tribunal, the State Government filed revision petitions before the High Court under section 23(1) of the Act in the first four cases and the assessee filed a revision petition in the last case. The High Court after holding that the turnovers in question F were not liable to tax under section 6(i) of the Act dismissed the petitions filed by the State Government and allowed the petition of the assessee who is the respondent in Civil Appeal No. 1805 of 1975. Thereafter the High Court granted by a common order a certificate of fitness in all these cases to prefer appeals before this Court to the State Government. On the basis of said certificate, G these appeals have been filed by the State Government against the orders of the High Court. Since these appeals involve a common question of law, they are disposed of by this common judgment.

The relevant part of section 6 of the Act reads :

H "6. Levy of purchase tax under certain circumstances.—Subject to the provisions of sub-section (5) of

section 5, every dealer who in the course of his business purchases any taxable goods in circumstances in which no tax under section 5 is leviable on the sale price of such goods and,

(i) either consumes such goods in the manufacture of other goods for sale or otherwise or disposes of such goods in any manner other than by way of sale in the state,

or

(ii) .....

shall be liable to pay tax on the purchase price of such goods at the same rate at which it would have been leviable on the sale price of such goods under section 5."

The contention of the State Government before the High Court was and before us is that the sale price of paddy which is a taxable commodity having not been subjected to tax under section 5 the assessees are liable to tax under section 6(i) of the Act as they had consumed it in the manufacture of rice which was a different commodity for sale. The assessees' contention which was accepted by the High Court is that paddy and rice being the same it cannot be said that they had manufactured 'other goods' out of paddy and hence section 6(i) is not attracted.

Paddy and rice have been held to be different commodities by this Court in *Ganesh Trading Co., Karnal* v. *State of Haryana & Anr.*(1) in which it is observed thus :

"Now, the question for our decision is whether it could be said that when paddy was dehusked and rice was produced its identity remained. It was true that rice was produced out of paddy but it is not true to say that paddy continued to be paddy even after dehusking. It had changed its identity. Rice is not known as paddy. It is a misnomer to call rice as paddy. They are two different things in ordinary parlance. Hence quite clearly when paddy is dehusked and rice produced, there has been a change in the identity of the goods".

(1) 32 S.T.C. 623

The above view has been followed by this Court in *Babu Ram Jagdish Kumar and Co.* v. *The State of Punjab* 4 *Ors.*(1)

It is unfortunate that the High Court as well as the Tribunal have tried to distinguish the decision of this Court in *Ganesh Trading Co.'s* case (supra) on insubstantial grounds, a detailed reference to which is unnecessary. We reiterate the view expressed in the above two cases and hold that paddy and rice are two distinct commodities and that the milling of paddy involves a manufacturing process.

There is no merit in the submission made on behalf of the assessees that they had not consumed paddy when they produced rice from it by merely carrying out the process of dehusking at their mills. Consumption in the true economic sense does not mean only use of goods in the production of consumers' goods or final utilisation of consumers' goods by consumers involving activities like eating of food, drinking of beverages, wearing of clothes or using of an automobile by its owner for domestic purposes. A manufacturer also consumes commodities which are ordinarily called raw materials when he produces semi-finished goods which have to undergo further processes of production before they can be transformed into consumers' goods. At every such intermediate stage of production, some utility or value is added to goods which are used as raw materials and at every such stage the raw materials are consumed. Take the case of bread. It passes through the first stage of production when wheat is grown by the farmer, the second stage of production when wheat is converted into flour by the miller and the third stage of production when flour is utilised by the baker to manufacture bread out of it. The miller and the baker have consumed wheat and flour respectively in the course of their business. We have to understand the word 'consumes' in section 6(i) of the Act in this economic sense. It may be interesting to note that this is the basis of the levy of 'Value Added Tax', popularly called as VAT, which is levied as an alternative to tax on turnover in some Western countries. The difference between 'Value Added Tax', and tax on the turnover of sales or purchases is explained by Professor Paul A. Samuelson in his book entitled 'Economics' (Tenth Edition, 1976) at page 168 thus :

> "A turnover tax simply taxes every transaction made : wheat, flour, dough, bread, VAT is different because it does not include in the tax on the miller's flour that part of its

(1) 44 S.T.C. 159

> value which came from the wheat he bought from the farmer. Instead, it taxes him only on the wage and salary, cost of milling, and on the interest, rent, royalty, and profit cost of this milling stage of production. (That is, the raw material costs used from earlier stages are subtracted from the miller's selling price in calculating his "value added" and the VAT tax on value added.....)"

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At every stage of production, it is obvious there is consumption of goods even though at the end of it there may not be final consumption of goods but only production of goods with higher utility which may be used in further productive processes.

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While construing the word 'consumption' which was found in the Explanation to Article 286(1)(a) as it stood prior to its deletion by the Constitution (Sixth Amendment) Act, 1956, this Court in *M/s. Anwarkhan Mahboob Co.* v. *The State of Bombay* & *Ors.*[1] observed thus :

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> "The Act of consumption with which people are most familiar occurs when they eat, or drink or smoke. Thus, we speak of people consuming bread, or fish or meat or vegetables, when they eat these articles of food; we speak of people consuming tea or coffee or water, when they drink these articles; we speak of people consuming cigars or cigarettes or bidis, when they smoke these. The production of wealth, as economists put it, consists in the creation of "utilities". Consumption consists in the act of taking such advantage of the commodities and services produced as constitutes the "utilization" thereof. For each commodity, there is ordinarily what is generally considered to be the final act of consumption. For some commodities, there may be even more than one kind of final consumption. Thus grapes may be "finally consumed" by eating them as fruits; they may also be consumed by drinking the wine prepared from "grapes". Again, the final act of consumption may in some cases be spread over a considerable period of time. Books, articles of furniture, paintings may be mentioned as examples. It may even happen in such cases, that after one consumer has performed part of the final act of consumption, another portion of the final act

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(1) [1961] 1.S.C.R. 709 at pp. 715-716

A of consumption may be performed by his heir or successor-in-interest, a transferee, or even one who has obtained possession by wrongful means. But the fact that there is for each commodity what may be considered ordinarily to be the final act of consumption, should not make us forget that in reaching the stage at which this final act of consumption takes place the commodity may pass through different stages of production and for such different stages, there would exist one or more intermediate acts of consumption."

C Applying the above test, it has to be held that the assessees had consumed the paddy purchased by them when they converted it into rice which is commercially a different commodity.

Since it is not disputed that the sales of paddy, which is a taxable commodity, in favour of the assessees had not suffered tax under section 5 in view of the circumstances in which they had taken place and it is held that the assessees had consumed paddy in the manufacture of rice which was a different commercial commodity for sale, the case of the assessees squarely falls under section 6(i) of the Act. The charge under section 6(i) should, therefore, be given due effect. This view is in accord with the opinion of this Court in *State of Tamil Nadu* v. *M. K. Kandaswami etc. etc.*(1) and in *Ganesh Prasad Dixit* v. *Commissioner of Sales-tax*,(2) where provisions corresponding to section 6(i) of the Act arose for consideration.

It is next contended that since the assessees would be exposed to double taxation both as buyers of paddy and as sellers of rice we F should hold that the levy in question is impermissible because paddy and rice are liable to be taxed at a single point. No provision is shown to us which bars such taxation when the commodities are different. In fact, in this case there is no double taxation on the same commodity. A similar contention was rejected by this Court in the case of *Babu Ram Jagdish Kumar* (supra) thus :

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"We may at this stage refer to one other subsidiary argument urged on behalf of the appellants. It is argued that because paddy and rice are not different kinds of goods

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(1) [1976] 1 S.C.R. 38.

(2) [1969] 3 S.C.R. 490.

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but one and the same, the inclusion of both paddy and rice in Schedule C to the Act would amount to imposition of double taxation under the Act. There is no merit in this contention also because the assumption that paddy and rice are one and the same is erroneous. In *Ganesh Trading Co., Karnal* v. *State of Haryana* (1973) 32 S.T.C. 623 (S.C.), arising under the Act, this Court has held that although rice is produced out of paddy, it is not true to say that paddy continued to be paddy even after dehusking; that rice and paddy are two different things in ordinary parlance and, therefore, when paddy is dehusked and rice produced, there is a change in the identity of the goods."

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In the result these appeals are allowed, the judgments of the High Court against which these appeals are filed are set aside and the turnover in question in each case is held to be taxable under section 6(i) of the Act. There shall, however, be no order as to costs.

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N.K.A. *Appeals allowed.*