

MADANLAL MANOHARLAL AND ORS. ETC. ETC.

A

v.

STATE OF HARYANA AND ANR.

NOVEMBER 28, 1989

[S. RANGANATHAN, N.D. OJHA AND J.S. VERMA, JJ.]

B

*Punjab Agricultural Produce Markets Act, 1961: Section 2(a) and Schedule Item 41—Sheep hair—Whether covered by wool (Oon)" and consequently agricultural produce.*

*Words and Phrases: Wool (Oon)—Meaning of.*

C

These writ petitions were filed by licenced dealers who manufacture woollen fabrics and blankets. They purchase sheep hair and make them yarn for use in manufacturing the above items. The challenge is against the insistence of the State Govt. to treat sheep hair as agricultural produce under the Punjab Agricultural Produce Markets Act, 1961 and requiring the petitioners to obtain licence and pay market fee for transactions in sheep hair.

D

It has been contended by the petitioners that even though goat hair and camel hair are included in the schedule, sheep hair is not included and hence sheep hair is not agricultural produce within the meaning of the Act. As regards item No. 41, Wool (Oon) appearing in the schedule, it was contended that wool is a manufactured item of sheep hair and not sheep hair itself and the word "wool" according to its dictionary meaning is the soft undercoat of various animals including sheep.

E

Dismissing the writ petitions, this Court,

F

HELD: 1.1 Item No. 41 of the schedule after the word "wool" uses the word "Oon" also within brackets which indicates as to what was really intended by the use of the word "wool". Indeed, in the Hindi version of the Act item No. 41 of the schedule uses the word "Oon" only and does not at all use the word "wool". The raw-material out of which a textile fibre is made is also described as raw wool. Not only the textile fibre but also the soft under-coat of various animals including sheep has itself been described as wool. Wool has almost invariably been used in the context of sheep hair. [295G; 296A]

G

H

- A 1.2 Interpreting item No. 41 Wool (Oon) of the schedule in the light of the above, there seems to be no manner of doubt that the word "wool" has been used therein only in the sense in which the word "oon" is understood in the trade by the dealer and the consumer in the popular sense namely that which people conversant with the word 'Oon' would attribute to it. This intention is apparent from the circumstance that care has been taken to specifically include goat-hair and camel-hair at items 75 and 76 of the schedule. Had wool (oon) been used at item No. 41 in the comprehensive sense, it would have automatically included goat-hair and camel-hair and the specific inclusion of Goat-hair and Camel-hair at item No. 75 and 76 would have been wholly unnecessary. Thus the word 'Wool (Oon)' has obviously been used in the popular sense and not in the sense used in scientific and technical terminology which the traders and the consumers are not normally supposed to know. [297D-H; 298A]

*Indian Aluminium Cables Ltd. v. Union of India, [1985] 3 SCC 284 and Collector of Central Excise, Kanpur v. Krishna Carbon Paper Co., [1989] 1 SCC 150, relied on.*

*Encyclopaedia Britannica Vol. 23, relied on.*

ORIGINAL JURISDICTION: Writ Petition (Civil) No. 1695 of 1987 Etc. Etc.

E (Under Article 23 of the Constitution of India).

Govind Mukhotey, J.D. Jain and B.B. Sinha for the Petitioners.

Dr. Y.S. Chitale, Mahabir Singh, K.B. Rohtagi and Shashank F Shekhar for the Respondents.

The Judgment of the Court was delivered by

G OJHA, J. The petitioners in these writ petitions are licenced dealers having factories and manufacturing units at Panipat in the State of Haryana and consume sheep hair for manufacturing woollen fabrics and blankets. In order to carry on their trade they purchase sheep-hair to get yarn manufactured out of it for being used in its turn for manufacturing woollen fabrics and blankets.

H The only question urged in these writ petitions is as to whether sheep-hair was an agricultural produce within the meaning of the said

term as defined under Section 2(a) of the Punjab Agricultural Produce Markets Act, 1961 (hereinafter referred to as the Act) so as to attract the provisions of the said Act to it. The term "agricultural produce" according to its definition contained under Section 2(a) of the Act means all produce, whether processed or not, of agriculture, horticulture, animal husbandry or forest as specified in the Schedule to the Act. On its plain meaning, therefore, only such produce as is specified in the Schedule to the Act shall fall within the term "agricultural produce". Section 38 of the Act confers power on the State Government, by notification, to add to the Schedule any other item of agricultural produce or amend or omit any item of such produce specified therein. The relevant items in the Schedule on which reliance has been placed by learned counsel for the petitioners in support of the contention that sheep-hair was not an agricultural produce are items 41. Wool (Oon), 75. Goat-hair and 76. Camel-hair.

It has been urged by learned counsel for the petitioners that even though Goat-hair and Camel-hair have been included in the Schedule, Sheep-hair had not been so included and consequently sheep-hair was not an agricultural produce within the meaning of the Act and the insistence of the authorities that the petitioners should obtain a licence and pay market fee with regard to their transaction in respect of sheep-hair was unjustified. With regard to item No. 41 namely Wool (Oon), it was urged firstly that wool is the manufactured item of sheep-hair and not sheep-hair itself and secondly the word 'wool' according to its dictionary meaning is the soft undercoat of various animals including sheep. Reference in this behalf has been made to the Dictionary of Scientific and Technical Terms—M.C. Graw—Hill. According to it wool is a textile fibre made from raw wool characterised by absorbency, resiliency and insulation. It further states that wool is the soft undercoat of various animals such as sheep, angora, goat, camel, alpaca, llamma and vicuna.

Having heard learned counsel for the parties, we are not inclined to agree with the submission made by learned counsel for the petitioners. Before dealing with the matter further it would be useful to notice at this place that item No. 41 of the Schedule after the word 'wool' uses the word 'Oon' also within brackets which indicates as to what was really intended by the use of the word 'Wool'. Indeed, in the Hindi version of the Act, item No. 41 of the Schedule uses the word 'Oon' only and does not at all use the word 'wool'. Now to the submissions made by learned counsel for the petitioners, the first submission made by him that the word 'wool' contemplated manufactured item of

A

B

C

D

E

F

G

H

- A sheep-hair and not sheep-hair itself, it belied even by the dictionary meaning of the said word relied on by him. Firstly, the raw-material out of which a textile fibre is made is also described as raw wool. Secondly, not only the textile fibre but also the soft undercoat of various animals including sheep has itself been described as wool. It is, therefore, apparent that not only the textile fibre made out of raw wool but even the soft undercoat of the various animals including sheep, according to the dictionary aforesaid, would be wool. Encyclopaedia Britannica, under the heading wool in vol. 23, states: "Animal fibres are usually spoken of as hair, with the exception of the coat of the sheep which is usually termed wool". A perusal of what has been stated under the heading wool therein would indicate that wool has almost invariably been used in the context of sheep-hair.

C

In *Indian Aluminium Cables Ltd. v. Union of India*, [1985] 3 SCC page 284 after referring to several earlier decisions of this Court it was held that in determining the meaning or connotation of words and expressions describing an article in a tariff schedule those words and

- D expressions should be construed in the sense in which they are understood in the trade by the dealer and the customer when goods are marketable. The same rule of interpretation was reiterated in *Collector of Central Excise, Kanpur v. Krishna Carbon Paper Co.*, [1989] 1 SCC page 150. It was held:

E

"It is well settled, as mentioned before, that where no definition is provided in the statute itself, as in this case for ascertaining the correct meaning of a fiscal entry reference to a dictionary is not always safe. The correct guide, it appears in such a case, is the context and the trade meaning

xxxxx

F

The trade meaning is one which is prevalent in that particular trade where the goods is known or traded. If special type of goods is subject matter of a fiscal entry then that entry must be understood in the context of that particular trade, bearing in mind that particular word xxxx

G

It is a well settled principle of construction, as mentioned before, that where the word has a scientific or technical meaning and also an ordinary meaning according to common parlance, it is in the latter sense that in a taxing statute the word must be held to have been used, unless contrary intention is clearly expressed by the legislature. This princi-

H

ple is well settled by a long line of decisions of Canadian, American, Australian and Indian cases. Pollock, J. pointed out in *Grenfell v. I.R.C.*, [1876] 1 Ex. D 242, 248 that if a statute contains language which is capable of being construed in a popular sense, such a statute is not to be construed according to the strict or technical meaning of the language contained in it, but is to be construed in its popular sense, meaning of course, by the words "popular sense" that which people conversant with the subject matter with which the statute is dealing would attribute to it. The ordinary words in every day use are, therefore, to be construed according to their popular sense. The same view was reiterated by Story, J. in 200 Chests of Tea (1824) 9 Wheaton US 435, 438 where he observed that the legislature does not suppose our merchants to be naturalists, or geologists, or botanists."

In our opinion, the aforesaid rule of interpretation would apply even to the interpretation of the items of the Schedule to the Act keeping in view the nature and purpose of the enactment. Interpreting item No. 41 Wool(Oon) of the Schedule in this light there seems to be no manner of doubt that the word 'wool' has been used therein only in the sense in which the word 'Oon' is understood in the trade by the dealer and the consumer in the popular sense namely that which people conversant with the word 'Oon' would attribute to it. If anyone goes to the market to purchase wool (oon) he would be offered only sheep-hair and not goat-hair or camel-hair or for the matter of that the hair of any other animal. Indeed, there is intrinsic evidence in the Schedule itself of the fact that in the English version the word 'Wool (Oon)' and in the Hindi version 'Oon' only at item No. 41 has been used in the same popular sense namely that of sheep-hair. This intention is apparent from the circumstances that care has been taken to specifically include goat-hair and camel-hair at items 75 and 76 of the Schedule. Had Wool (Oon) been used at item No. 41 in the comprehensive sense as canvassed by the learned counsel for the petitioners it would have automatically included Goat-hair and Camel-hair also and the specific inclusion of Goat-hair and Camel-hair at items 75 and 76 would have been wholly unnecessary. Consequently, their specific inclusion at items 75 and 76 is a clear indication of the awareness of the fact that the trade meaning of the word 'Wool (Oon)' which is prevalent in the popular sense would be sheep-hair alone and as such unless goat-hair and camel-hair are included as specific items in the Schedule they will not be treated as agricultural produce. The word

A 'Wool (Oon)' has obviously been used at item No. 41 of the Schedule in the aforesaid popular sense and not in the sense used in scientific and technical terminology which the traders and the consumers are not normally supposed to know.

B In view of the foregoing discussion, we are clearly of the opinion that sheep-hair falls under the item No. 41 of the Schedule namely "Wool (Oon)" as contained in the English version and "Oon" only as contained in the Hindi version of the Act. Sheep-hair is consequently an agricultural produce within the meaning of the Act so that the various provisions therein with regard to agricultural produce are applicable to sheep-hair also.

C In the result, we find no merit in these writ petitions. They are accordingly dismissed but in the circumstances of the case there shall be no order as to costs.

D G.N.

Petitions dismissed.