State Of Punjab vs Hindsons (P) Ltd on 20 September, 1984

Equivalent citations: 1984 AIR 1803, 1985 SCR (1) 771, AIR 1984 SUPREME COURT 1803, (1985) 19 ELT 19, 1984 UPTC 1223, 1984 STI 79

Author: D.A. Desai

Bench: D.A. Desai, D.P. Madon

PETITIONER:
STATE OF PUNJAB

Vs.

RESPONDENT:
HINDSONS (P) LTD.

DATE OF JUDGMENT20/09/1984

BENCH:
DESAI, D.A.
BENCH:
DESAI, D.A.
MADON, D.P.

CITATION:
1984 AIR 1803 1985 SCR (1) 771
1984 SCC 415 1984 SCALE (2)399

ACT:
Words and Phrases-`Belt Pulley Attachment'-Whether an agricultural implement-Whether liable to be exempted from the levy of sales tax-Entry 34, of Schedule `B'-Punjab General Sales Tax Act, 1948.

HEADNOTE:
The respondent-assessee, a dealer in tractors, motor-cycles and spare-parts etc., while filing its quarterly returns, claimed deduction in respect of tax free goods of Rs. 26, 572.82 being the sale proceeds of belt pulley attachment sold along with the tractor or separately by itself from its yearly gross turn over of Rs. 21,65,983.91 for the assessment year 1965-66 on the ground that the belt pulley attachment should be treated as an agricultural implement and therefore it is exempted from the levy of sales tax under Entry 34 of Schedule B to the Punjab General Sales Tax Act (the Act for short). The assessing authority

rejected the claim on the ground that the belt pulley attachment could not be treated as a composite part of the tractor nor can it be treated as an agricultural implement and it was not one of the tax free goods as contemplated by Entry 34. The respondent-assessee preferred an appeal to the appellate authority against the order of the assessing authority. The appellate authority allowed the appeal holding that the sales of belt pulley attachment amounting to Rs. 26, 572. 82 p. was of tax free goods under Sec. 5 (2) (a) (i) of the Act and that amount should be deducted from the gross turnover of the assessee. But, the Joint Excise and Taxation Commissioner suo moto quashed the order of the appellate authority and restored that of the assessing authority. In revision, Sales Tax Tribunal confirmed the decision of the Taxation Commissioner. Thereupon the respondent-assessee moved the High Court which held that the belt pulley attachment falls within the meaning of the expression agricultural implement since it increases the utility of a tractor for an agricultural operation. Hence this appeal by special leave.

Allowing the appeal,

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HELD : (1) Belt pulley means a pulley over which a belt may pass to transmit power to other part of the machine. It is indeed true that the belt pulley when used in a tractor may increase the utility of the tractor for agricultural operations but that by itself does not lead to the inevitable conclusion that belt pulley attachment is an agricultural implement. It is not only used in a tractor but it is also used in various other machines such as motor car engines, water pumps, threshers etc. Therefore, when sold as a spare

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part it cannot by itself become an agricultural implement. To comprehend it in the generic term "agricultural implement," the court would have to stretch the language to impermissible limit of breaking it.

[773 H, 774 A-G]

In the instant case, the assessee is selling belt pulley attachment as spare part which can be used in many machines. Therefore, the belt pulley attachment which can be used in various mechanical appliances or devices by itself cannot be said to be an agricultural implement.

JUDGMENT:

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 1817- 19 of 1984 Appeal by Special leave from the judgment and Order dated the 6th November, 1981 of the Punjab and Haryana High Court in Sales Tax Ref. Nos. 4-5 of 1978 and C.W.P. No. 3095 of 1973.

S.K. Bagga for the Appellant.

Vineet Kumar for the Respondent.

The Judgment of the Court was delivered by DESAI, J. On a direction given by the High Court of Punjab and Haryana at Chandigarh, the Sales Tax Tribunal, Punjab, Chandigarh ('Tribunal' for short) referred under Section 22(2)(b) of the Punjab General Sales Tax Act, 1948 ('Act' for short) the following question of law to the High Court for its opinion:

> "Whether a belt pulley attachment was an agricultural implement within the meaning of entry 34 of Schedule 'B' of Punjab General Sales Tax Act, prior to the amendment made on April 15, 1971"?

> This question came to be referred to the High Court at the instance of the assessee, the respondent herein. The respondent firm deals in tractors, motor-cycles, cycles, spare-parts etc. The assessee filed its quarterly returns declaring a gross yearly turnover of Rs. 21,65,983.91p. Deductions were claimed in respect of sales of tax-free goods, sales made to registered dealers etc. Among the sales claimed in respect of tax-free goods, a commodity known as belt pulley attachment was included valued at Rs. 26,572.82p. It was admitted that the belt pulley attachment was sold alongwith tractor or separately by itself. It was contended by the assessee that the belt pulley attachment should be treated as an agricultural implement and therefore, it is exempted under Entry 34 of Schedule 'B' to the Act from the levy of sales tax. The assessing authority came to the conclusion that the belt pulley attachment could not be treated as a composite part of the tractor nor can it be treated as an agricultural implement and it was not one of the tax-free goods as contemplated by Entry 34. He accordingly, rejected the claim for deduction and completed the assessment for the assessment year 1965-

> 66. The assessee preferred an appeal before the Deputy Excise and Taxation Commissioner raising various contentions, one of them being that the assessing authority was in error in holding that belt pulley attachment was not an agricultural implement so as to be exempt from the payment of sales tax. The appellate authority held that the belt pulley attachment should be treated as an agricultural implement and allowed the appeal to that extent holding that the sales of belt pulley attachment amounting to Rs. 26,572.82p. was of tax-free goods under Sec. 5(2)(a)(i) and that amount should be deducted from the gross turnover of the assessee. The Joint Excise and Taxation Commissioner exercising the powers of Commissioner initiated suo moto proceedings under Sec. 21(1) of the Act and concluded that the appellate authority was in error in holding that the belt pulley attachment was an agricultural implement. He accordingly quashed the order of the appellate authority and restored the order of the assessing authority. The assessee carried the matter in revision to the Sales Tax Tribunal raising the same contention. The Sales Tax Tribunal by its order dated October 21, 1972 upheld the order of the Joint Excise and Taxation

Commissioner and dismissed the revision petition. The assessee moved an application under Sec. 21(1) of the Act requesting the Tribunal to state the case and refer the question of law as hereinbefore set out to the High Court. The Tribunal rejected the application. Thereupon the assessee moved the High Court as herein above mentioned. The High Court held that 'belt pulley attachment, as a matter of fact, increases the utility of a tractor for an agricultural operation' and concluded 'that belt pulley attachment falls within the meaning of agricultural implement'. The High Court accordingly answered the question in the affirmative that is against the revenue and in favour of the assessee. Hence this appeal by special leave.

The narrow question is whether belt pulley attachment is an agricultural implement so as to be exempt from the levy of sales tax under the Act. It is indeed true as held by the High Court that the belt pulley when used in a tractor may increase the utility of the tractor for agricultural operations but that by itself does not lead to the inevitable conclusion that belt pulley attachment is an agricultural implement. The Tribunal in this connection, has rightly held that not only belt pulley attachment is used in the tractor but it is also used in water pumps, thrashers etc. The High Court unfortunately overlooked the most obvious fact that belt pulley is also sold as separate spare part. It is used in various other machines such as motor car engines. Belt pulley means a pulley over which a belt may pass to transmit power to other part of the machine. Common sense tells us that even in a motor-car there is belt pulley and the rotational movement is transmitted from the rotating fan via the belt on the pulley to the pulley of the dynamo for charging it. The assessee is selling belt pulley attachment as spare-part which can thus be used in many machines. If it is so then it is difficult to understand how belt pulley attachment by itself becomes an agricultural implement. When used in a motor engine, how can one ever assure that it is an agricultural implement. It may as well be used in many agricultural instruments where mechanised farming takes place. But by itself when sold as a spare part it cannot by itself become an agricultural implement. The exemption was with regard to an agricultural implement as contemplated by Entry 34 in Schedule 'B' to the Act. Undoubtedly, later on by amendment to Entry 34 on April 15, 1971, belt pulley attachment has been introduced in Entry

34. On this account alone it cannot however, be contended that the amendment merely makes explicit what was implicit in the entry as it stood prior to the amendment. The Tribunal rightly held that if belt pulley is used in a tractor and sales tax is levied on the sale of tractor no separate sales-tax is levied on belt pulley. We do not propose to view the matter from this angle. We must examine whether a belt pulley attachment when sold as a spare-part would be comprehended in Entry 34 which sets out agricultural implements exempted from the levy of sales tax. Obviously as stated earlier belt pulley attachment which can be used in various mechanical appliances or devices by itself cannot be said to be an agricultural implement. To comprehend it in the generic term "agricultural implement", we would have to stretch the language to impermissible limit of breaking it.

The High Court merely observed that:

> "A belt pulley, as a matter of fact, increases the utility of a tractor for agricultural operation and therefore a belt pulley falls within the meaning of an agricultural implement."

The conclusion on the face of it without anything more is incorrect and cannot be accepted as an ipse dixit.

Accordingly, these appeals succeed and are allowed and the judgment of the High Court is reversed and set aside and the reference invited before the High Court is rejected and the decision of the Tribunal is restored. But in the circumstances of the case there will be no order as to costs.

M.L.A. Appeals allowed