

V.V.S.Sugars vs Govt.Of Andhra Pradesh And Ors on 28 April, 1999

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Bench: S.P.Bharucha, B.N.Kirpal, S.Rajendra Babu, S.S.M.Quadri, M.B.Shah

CASE NO. :

Appeal (civil) 903 of 1984

PETITIONER:

V.V.S.SUGARS

RESPONDENT:

GOVT.OF ANDHRA PRADESH AND ORS.

DATE OF JUDGMENT: 28/04/1999

BENCH:

S.P.BHARUCHA & B.N.KIRPAL & S.RAJENDRA BABU & S.S.M.QUADRI & M.B.SHAH

JUDGMENT:

JUDGMENT DELIVERED BY:

S.P. BHARUCHA, J.

BHARUCHA, J. :

We are concerned with the interpretation of Section 21 of the Andhra Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1961, as amended by Act 25 of 1976. Principally, the provisions to be dealt with are sub-sections 3D, 4 and 5 of Section 21 which read thus:

(3-D) In relation to the tax levied under sub-section (1) and in respect of purchase of sugarcane on or after the date of commencement as aforesaid :-

(a) Sub-sections (4) and (5) shall not apply, and the tax shall be deemed due date of purchase of sugarcane or the date of commencement as aforesaid, whichever is later,

(b) Sub-section (3-C) shall apply with the modification that where the assessing authority is satisfied that the Occupier of a factory or Owner of Khandasari unit has removed or cause to be removed any sugar in contravention of the provision of this section or has failed to account fully for the sugar produced in the factory or Khandasari unit or deposited by him under the provision to sub-section (3), the

person liable to pay the tax shall in addition to the amount payable under sub-section (3) in respect of the quantity of sugar so removed or caused to be removed or unaccounted for, be also liable to pay by way of penalty a further sum not exceeding one hundred percent of the sum so payable;

(c) The provisions of the sub-section shall be without prejudice to the provisions of sub-section (3-C).

(4) The tax payable under sub-section (1) shall be levied and collected from the Occupier of the factory or Owner of the Khandasari unit in such manner and by such authority as may be prescribed.

(5) Arrears of tax shall carry interest at such rate as may be prescribed, The question is whether, subsequent to the said provisions as amended, any interest could be levied on arrears of tax under sub-rule (4) of Rule 45 of the Andhra Pradesh Sugarcane (Regulation of Supply & Purchase) Rules, 1961. Rule 45, so far as it is relevant, reads thus :

45(3) Any amount of tax still remaining unpaid, as finally arrived at, at the end of the crushing season on the revised assessment of tax worked out and communicated by the assessing authority under sub-section (3-B) of Section 21, shall be treated as arrear under sub-section (5) of Section 21 of the Act.

(4) Such arrears shall carry interest at the rate of 16 percent per annum from the date following the date of closure of crushing till the amount is finally paid.

The argument on behalf of the appellants is that by reason of clause (a) of sub-section 3D of Section 21, as amended, sub-sections (4) & (5) thereof are not to apply in respect of purchases of sugarcane made on or after the date of the commencement of the Amending Act, which was 29th December, 1975; that sub-section (5) of Section 21 was the provision that required the payment of interest on arrears of tax; and that, having regard to the inapplicability of that provision for the relevant period, no interest could be levied. The High Court in the principal judgment, which was followed in the subsequent orders, took the view that the scope of sub-section 3D of Section 21 and its application was restricted to the crushing season 1975-76 during which the Amending Act had come into force.

The said Act is a taxing statute and a taxing statute must be interpreted as it reads, with no additions and no subtractions, on the ground of legislative intendment or otherwise.

On the plain wording of clause (a) of sub-section (3D) of Section 21 of the Act as amended, we find it difficult to agree with the High Court. The provisions thereof say that sub-section (5) shall not apply in relation to tax levied under sub-section (1) of Section 21 on purchase of sugarcane. The provisions came into force on the date of the commencement of the Amending Act. The provisions are open ended and are intended to apply upon the commencement of the Amending Act with no limitation in time.

This Court in *India Carbon Limited & Ors. vs. State of Assam* (1997 (6) SCC 479) has held, after analysing the Constitution Bench judgment in *J.K. Synthetic vs. CTO* (1994 (4) SCC 276), that interest can be levied and charged on delayed payment of tax only if the statute that levies and charges the tax makes a substantive provision in this behalf. There being no substantive provision in the Act for the levy of interest on arrears of tax that applied to purchases of sugarcane made subsequent to the date of commencement of the Amending Act, no interest thereon could be so levied, based on the application of the said Rule 45 or otherwise.

The appeals are allowed. The judgments and orders under appeal are set aside.

This Court, by order dated 23rd November, 1983, had refused stay of the judgment and orders under appeal and had directed that, in the event the appeals succeeded and the respondents were held liable to refund the amounts recovered on account of refusal of stay, the entire amounts should be refunded within three months from the date of the order with 18% interest from the date of the payment till the amounts were refunded. The appeals having succeeded, the respondents shall refund the amounts that the appellants have paid within three months from today with interest at the rate of 18% per annum from the date of payment till the refund is made. No order as to costs.