

# The State Of Madhya Bharat (Now The State ... vs Hiralalji on 29 November, 1965

**Equivalent citations: 1966 AIR 1546, 1966 SCR (2) 752**

**Bench: J.C. Shah, S.M. Sikri**

PETITIONER:

THE STATE OF MADHYA BHARAT (Now the STATE OF MADHYA PRADESH)

Vs.

RESPONDENT:

HIRALALJI

DATE OF JUDGMENT:

29/11/1965

BENCH:

SUBBARAO, K.

BENCH:

SUBBARAO, K.

SHAH, J.C.

SIKRI, S.M.

CITATION:

1966 AIR 1546

1966 SCR (2) 752

CITATOR INFO :

RF 1974 SC1362 (4)

D 1976 SC 800 (10,11,15)

D 1981 SC1649 (13)

RF 1992 SC 422 (3,4)

ACT:

Sales Tax-Madhya Bharat Sales Tax Act, Samvat 2007 (30 of 1950)-Essential Goods (Declaration and Regulation of Tax on Sales or Purchase) Act, 1952 (Central Act 52 of 1952), s. 5-Notifications issued under-Iron and steel exempted from sales tax-Iron bars, flats and Plates whether 'Iron and steel' for the purpose of exemption.

HEADNOTE:

The respondent as head of a joint Hindu family owned a re-rolling mill at which scrap iron locally purchased, and iron plate-, imported from outside, were converted into bars, flats and plates in the Mills and thereafter sold in the market. The sales tax authorities held that iron bars,

flats and plates sold by the respondent were not 'iron and steel' exempted by notification No. 58 dated October 1953 issued under the Essential Goods (Declaration and Regulation of Sales and Purchasees) Act, 1952. In a petition under Arts. 226 and 227 filed by the respondent challenging the said assessment the High Court decided that iron bars, flats and plates were exempted under the notification. The State appealed to this Court.

HELD : Goods prepared from metals other than gold and silver are made taxable by notification No. 59 whereas notification No. 58 exempts iron and steel from tax. A comparison of the said two notifications brings out the distinction between raw-materials of iron and steel and the goods prepared from iron and steel. While the former is exempted from tax the latter is taxed. Therefore iron and steel used as rawmaterial for manufacturing other goods are exempted from taxation. So long as iron and steel continue to be raw materials, they enjoy the exemption. Scrap iron purchased by the respondent was merely rerolled into bars, flats and plates for convenience of sale. The rawmaterials were only re-rolled to give them attractive and acceptable forms. They did not in the process lose their character as iron and steel. The bars, flats and plates sold by the respondent were therefore iron and steel exempt under the notification. [754 D-G]

#### JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 814 of 1964.

Appeal by special leave from the judgment and order dated October 24, 1961 of the Madhya Pradesh High Court in Misc. Petition No. 125 of 1958.

I.N. Shroff, for the appellants.

C.B. Agarwala and C. P. Lal, for the respondent. The Judgment of the Court was delivered by Subba Rao, J. This appeal by special leave raises the question of the interpretation of Item No. 39 of the Notification No. 58, dated October 24, 1953, hereinafter called the 'Notification', issued by the Government of Madhya Bharat under the Madhya Bharat Sales Tax Act, Samvat 2007 (Act No. 30 of 1950), hereinafter called the Act.

The facts are as follows : Hiralal, the respondent, is the manager of a joint Hindu family carrying on business in the name and style of "Messrs. Tilokchand Kalyanmal". The joint family owns a re-rolling mill situated in Indore City called the Central India Iron and Steel Company. The said family purchases scrapiron locally and imports iron plates from outside and after converting them into bars, flats and plates in the Mills sells them in the market. The respondent made a default in furnishing the returns prescribed by s. 7(i) of the Act for the period April 1, 1954, to March 31, 1955.

On February 27, 1956, the Sales- tax. Officer, Indore, determined the taxable turnover at Rs. 2,26,000 and the sales-tax payable thereon at Rs. 8,000; and he also imposed a penalty of Rs. 1,000 under s. 14 (1)

(c) of the Act. On the same day he issued demand notices to the respondent for the payment of the said sales-tax and the penalty. On September 10, 1956, the respondent filed a petition in the High Court of Madhya Bharat (afterwards Madhya Pradesh) under Arts. 226 and 227 of the Constitution for the issue of appropriate writs quashing, the assessment of tax and penalty and to restrain the State from giving effect to the said orders of the Sales-tax Officer. A Division Bench of the High Court held that the iron bars, flats and plates sold by the respondent were exempted from sales-tax under the Notification. In that view, the orders of the Sales-tax Officer were quashed. The state has filed the present appeal, by special leave.

The only question in this appeal is whether the said iron bars, flats and plates are not iron and steel within the meaning of Item No. 39 of the Notification.

Parliament enacted Essential Goods (Declaration and Regulation of Tax on Sales or Purchases) Act, 1952 (Act No. 52 of 1952), which came into force on August 9, 1952. In Schedule I of the said Act, iron and steel were declared essential for the life of the community. Thereafter, the Government of Madhya. Bharat, in exercise of the powers conferred by S. 5 of the Act, issued the Notification as also Notification No. 59, dated October 24, 1953. The material part of Schedule I of Notification 58 reads "No tax shall be payable on the sale of the following goods S.No. Description of goods.

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39 Iron and steel.

----- Notification No. 59 described the goods sales of which were taxable at particular rates. Schedule IV thereof reads :

"List of articles under section 5 of the Madhya Bharat Sales Tax Act, 1950, on the assessable sale proceeds of which sales tax at the rate of Rs. 3/2/- per cent. shall be payable, showing the nature of articles on which the tax is payable.

----- S.No. Name of article Stage of sale in Madhya Bharat at which the tax is payable.

----- 9 .... goods prepared from any Sale by imported or pro- metal sale by importer or producer. ducer. other than gold and silver.....

----- Learned counsel for the State contends that the expression "iron and steel" means iron and steel in the original condition :-and not iron and steel in the shape of bars, flats and plates. In our view,

this contention is not sound. A comparison of the said two Notifications brings out the distinction between rawmaterials of iron and steel and the goods prepared from iron and steel : while the former is exempted from tax, the latter is taxed. "Therefore, iron and steel used as raw-material for manufacturing other goods are exempted from taxation. So long as iron and steel continue to be raw-materials, they enjoy the exemption. Scrap iron purchased by the respondent was merely re-rolled into bars, flats and plates. They were processed for convenience of sale. The raw-materials were only re-rolled to give them attractive and acceptable forms. They did not in the process lose their character as iron and steel. The dealer sold "iron and steel" in the shape of bars, flats and plates and the customer purchased "iron and steel" in that shape. We, therefore, hold that the bars, flats and plates sold by the assessee are iron and steel exempted under the Notification. The conclusion arrived at by the High Court is ,correct.

In the result, the appeal fails and is dismissed with costs.

Appeal dismissed.