

## **Commissioner Of Income Tax, Amritsar vs Straw Board Manufacturing Co. Ltd on 28 April, 1989**

**Equivalent citations: 1989 AIR 1490, 1989 SCR (2) 772, AIR 1989 SUPREME COURT 1490, 1989 TAX. L. R. 574, 1990 SCC(TAX) 158, (1989) 44 TAXMAN 189, (1989) 72 CURTAXREP 75, (1989) 2 JT 264 (SC), 1989 SCC (SUPP) 2 523, (1989) 177 ITR 431, (1989) 74 FJR 405, (1989) 2 COMLJ 176**

**Author: R.S. Pathak**

**Bench: R.S. Pathak, M.H. Kania**

PETITIONER:

COMMISSIONER OF INCOME TAX, AMRITSAR

Vs.

RESPONDENT:

STRAW BOARD MANUFACTURING CO. LTD.

DATE OF JUDGMENT 28/04/1989

BENCH:

PATHAK, R.S. (CJ)

BENCH:

PATHAK, R.S. (CJ)

KANIA, M.H.

CITATION:

1989 AIR 1490                      1989 SCR (2) 772

1989 SCC Supl. (2) 523 JT 1989 (2) 264

1989 SCALE (1) 1151

CITATOR INFO :

RF                      1992 SC 1622 (4)

ACT:

Income Tax Act, 1961: Sections 33 and 80-E--Schedule 5, Item 16--Assessee--Manufacturer of strawboard---Whether entitled to concessional rate of income-tax, development rebate and deduction--Strawboard industry--Whether part of paper and pulp industry--Strawboard--Whether covered by expression 'paper and pulp'.

HEADNOTE:

The assessee, manufacturer of strawboard, claimed concessional rates of income tax, development rebate at higher

rate under s. 33 and deduction under s. 80-E of the Income Tax Act, 1961, for the assessment years 1965-66, 1966-67 and 1967-68, on the ground that the manufacture of strawboard was a priority industry. The claim was rejected by the Income Tax Officer on the ground that the assessee could not be described as a priority industry and that the manufacture of strawboard was not covered by the words 'paper and pulp' in the relevant Schedules pertaining to the assessment years 1966-67 and 1967-68.

The assessee's appeals were dismissed by the Appellate Assistant Commissioner. In second appeals, the Appellate Tribunal accepted the assessee's plea that the manufacture of strawboard was a priority industry and held that the assessee was entitled to the statutory rebates claimed by it.

On a reference made at the instance of the Revenue, the High Court held that the strawboard industry was covered within the expression 'paper and pulp' appearing in the relevant Schedules of the income Tax Act.

Dismissing the appeals by the Revenue, this Court,

HELD: When provision is made in the context of a law providing for concessional rates of tax for the purpose of encouraging an industrial activity, a liberal construction should be put upon the language of the statute. [775E-F]

773

The provision for rebate has been made for the purpose of encouraging the setting up of new industries, and the industries are those described in the Schedules relevant to the respective assessment years. When the Schedules refer to 'paper and pulp', they, in fact, intend to refer to the paper and pulp industry. The expression has been used comprehensively. [775D-E]

The expression 'paper and pulp' in the Industries (Development and Regulation) Act, 1951 includes paperboard and strawboard. Newsprint, paperboard and strawboard have been specifically mentioned in the relevant entry in order to make it clear that they are included within the meaning of the word 'paper'. The process or manufacturing strawboard is identical with the process of manufacturing paper. [775G-H; 776A]

In the circumstances, there is no doubt that the strawboard industry is part of the paper and pulp industry and the assessee, whose undertaking was registered in terms of s. 10 of the Industries (Development and Regulation), 1951 is entitled to the rebates claimed by it. [775E]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 5 19521 of 1975.

From the Judgment and Order dated 9.5.1974 of the Punjab and Haryana High Court in I.T. Reference Nos. 30 to 32 of 1973.

G.C. Sharma, Ms. A. Subhashini and K.C. Dua for the Appellant.

Dr. Y.S. Chitale, R.K. Jain, Rakesh Khanna and Ms. Abha Jain for the Respondent.

The Judgment of the Court was delivered by PATHAK, CJ. These appeals by special leave are directed against a judgment of the High Court of Punjab and Haryana disposing of an Income-tax Reference in favour of the respondent-assessee.

The assessee manufactures strawboard. For the assessment years 1965-66, 1966-67 and 1967-68 (the relevant previous years being the respective calendar years 1964, 1965 and 1966), the assessee claimed concessional rates of income tax, development rebate at higher rate and deduction under s. 80-E of the Income Tax Act, 1961 on the ground that the manufacture of strawboard was a priority industry. For the assessment year 1965-66 the total income assessed was Rs. 17,71,334 and against the basic rate of 80 per cent the assessee claimed rebate at the rate of 35 per cent up to Rs. 10,00,000 and on the balance at 26 per cent. The Income Tax Officer allowed the rebate at 30 per cent up to Rs. 10,00,000 and at 20 per cent on the balance. For the assessment year 1966-67 the assessee claimed development rebate under s. 33 of the Income Tax Act at the rate of 25 per cent on the value of the machinery installed after 1 April, 1965 worth Rs.34,287, but rebate was allowed at 20 per cent only. The assessee also claimed benefit under s. 80-E (inserted by the Finance Act, 1966 with effect from 1 April, 1966) to the extent of the income determined by the Income Tax Officer at Rs.8, 17,485 received from the manufacture of strawboard. This industry is mentioned at item No. 16 in the Fifth Schedule to the Income Tax Act as substituted by the Finance Act, 1965. The claim of the assessee was rejected by the Income Tax Officer. For the assessment year 1967-68 the total income of the assessee was determined at Rs. 11,00,885. The assessee claimed relief under s. 80-E to the extent of Rs.7,50,316 received as income from the manufacture of strawboard. This claim was similarly rejected by the Income Tax Officer on the ground that the assessee could not be described as a priority industry. The Income Tax Officer took the view that the manufacture of Strawboard was not covered by the words 'paper and pulp' in the relevant Schedules pertaining to the assessment 1966-67 and 1967-68.

The assessee appeared to the Appellate Assistant Commissioner of Income Tax in respect of the three assessments, but the appeals were dismissed. In second appeals filed in all the three cases, the assessee's plea that the manufacture of strawboard was a priority industry was accepted and the Appellate Tribunal held that the assessee was entitled to the statutory rebates claimed by it. At the instance of the Revenue, the Tribunal referred the following questions to the High Court for its opinion:

"Assessment year 1965-66 Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that 'strawboard' is covered by the term 'paper and pulp' appearing in paragraph F of Part I read with Part III of the First Schedule to the Finance Act, 1965 (Act No. X of 1965)?

Assessment years 1966-67 and 1967-68 Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that 'strawboard' is covered by the term 'paper and pulp' appearing at item 16 of the Fifth Schedule to the Income Tax Act, 1961 and in allowing the assessee's claim under section 80-E of the Act?"

The High Court has held that the strawboard industry is covered within the expression 'paper and pulp' appearing in the relevant Schedules of the Income Tax Act and has, therefore, answered the questions referred to it in the affirmative, in favour of the assessee and against the Revenue. The sole question before us is whether strawboard can be said to fall within the expression 'paper and pulp' mentioned in the Schedules relevant to the respective assessment years. To resolve the question it is necessary, first to examine the significance and scope of the Schedules. The provision for rebate has been made for the purpose of encouraging the setting up of new industries, and the industries are those described in the relevant Schedules. It seems to us clear that when the Schedules refer to 'paper and pulp' they in fact intend to refer to the paper and pulp industry. That being so, the next question is whether the strawboard industry can be described as forming part of the paper and pulp industry. We have no doubt in our mind that it does. The expression has been used comprehensively. It is necessary to remember that when a provision is made in the context of a law providing for concessional rates of tax for the purpose of encouraging an industrial-activity a liberal construction should be put upon the language of the statute. From the material before us, which we have carefully considered, that is the only reasonable conclusion to be reached in this case. The High Court has referred to the licence dated 31 May, 1954 issued to the assessee that the undertaking of the assessee was registered in terms of s. 10 of the Industries (Development and Regulation) Act, 1951, and the details given in the licence declare that it relates to a Schedule industry which includes newsprint, paperboard and strawboard. The High Court has also referred to the circumstances that the process of manufacturing strawboard is identical with that of manufacturing paper. The expression 'paper and pulp' in the Industries (Development and Regulation) Act includes paperboard; and strawboard. Our attention has been drawn to the Entry relevant to the assessment year 1964-65 which speaks of 'paper and pulp including paper products' and, it is said, strawboard is evidently not within the natural meaning of the word 'paper'. We do not think that the submission merits serious consideration. Newsprint, paperboard and strawboard have been specifically mentioned in the entry in order to make it clear that they are included within the meaning of the word 'paper'. In our judgment, the High Court is right in taking the view which it has, and therefore, the appeals must be dismissed.

The appeals are dismissed with costs.

N.P.V.

Appeals dismissed.