Supreme Court of India
Ganesh Trading Co., Karnal vs State Of Haryana And Anr. on 25 April, 1973
Equivalent citations: AIR 1974 SC 1362, (1974) 3 SCC 620, 1973 32 STC 623 SC
Author: K Hegde
Bench: H Khanna, K Hegde
JUDGMENT K.S. Hegde, J.

1. The appellants carry on business of buying paddy and after getting it husked either in their own mills or in other mills sell the rice to the Government and other registered dealers. On the purchase of paddy they paid purchase tax as provided in the Punjab General Sales Tax Act, 1948. The question for decision is whether when they sold the rice produced out of the paddy purchased, they were entitled to exclude the turnover relating to the paddy purchased. When the Sales Tax Officer sought to levy sales tax without excluding the turnover in question from the total turnover of the appellants, the appellants moved the High Court of Punjab and Haryana under Article 226 of the Constitution challenging the validity of the levy. The petitions filed by the appellants first went up before a learned single Judge, who rejected the same. He came to the conclusion that rice and paddy are not identical goods and consequently the turnover relating to paddy over which purchase tax had been paid could not be excluded in computing the assessable turnover of the appellants. Aggrieved by that order the appellants went up in appeal to the Appellate Bench of that High Court. The Appellate Bench confirmed the decision of the learned single Judge. Thereafter, after getting certificates from the High Court, these appeals have been brought.

2. The only question that arises for decision in these appeals is whether paddy and rice can be considered as identical goods for the purpose of imposition of sales tax. Under the concerned Sales Tax Act exemption from payment of sales tax is provided if the very paddy in respect of which purchase tax was levied was sold and not if that paddy is converted into rice and sold. It is contended on behalf of the appellants that paddy and rice are identical goods and, therefore, when the law grants an exemption in respect of paddy, that exemption is also available to transactions relating to rice. The argument proceeded on the basis that rice was nothing but dehusked paddy. Both rice and paddy are identical goods. When paddy was dehusked, there is no change in the identity of the goods.

3. In support of their contention, the appellants cited to us certain dictionary meanings of the word "paddy" to show that rice is nothing but dehusked paddy. This Court has firmly ruled that in finding out the true meaning of the entries mentioned in a Sales Tax Act, what is relevant is not the dictionary meaning, but how those entries are under stood in common parlance, specially in commercial circles. Sales tax primarily deals with dealers who are engaged in commercial activity. Therefore, what is of the essence is to find out whether in commercial circles, paddy is considered as identical with rice. In this connection reference may be usefully made to the decision of this Court in Ramavatar Budhaiprasad v. Assistant Sales Tax Officer, Akola ., wherein this Court was called upon to consider whether betel leaves could be considered as vegetables. Dictionary meaning showed that betel leaves are a class of vegetables, but yet this Court ruled that the word "vegetable" should be construed in its popular sense, meaning that sense which people conversant with the subject-matter with which the statute is dealing, would attribute to it. On that basis this Court came to the

conclusion that betel leaves could not be considered as vegetables. In Commissioner of Sales Tax, Madhya Pradesh, Indore v. Jaswant Singh Charan Singh ., this Court held that the word "coal" included "charcoal" on the ground that in ordinary parlance "coal" includes "charcoal". In State of Punjab v. Chandu Lal Kishori Lal [1970] 25 S.T.C. 52 (S.C.); ., the question was whether "cotton" included "cotton seeds". This Court held that they were two distinct commercial goods though before the seeds were separated both the cotton and the seeds were part of one commodity.

4. In support of their contention that the meaning given in the commercial circles is not of the essence and what is of essence is the identity of the goods, the learned Counsel for the appellants relied on the decision of this Court in Stale of Madhya Bharat (now State of Madhya Pradesh) v. Hiralal [1966] 17 S.T.C. 313 (S.C.). There the relevant entry read "iron and steel". The question was whether when a dealer purchased scrap iron locally and imported iron plates from outside and after converting them into bars, flats and plates in his mills, sold them in the market, they continued to be "iron and steel". This Court ruled that in spite of the change effected because of the process the goods had undergone, the goods sold in the market did not cease to be "iron and steel". We do not think that this decision is of any assistance to the appellants because both the goods purchased as well as sold were "iron and steel".

5. It was contended on behalf of the appellants that the essential question that we have to decide is whether the goods sold differed in identity from the goods purchased. It was urged that merely because paddy was dehusked and rice produced, there was no change in the identity of the goods. Identity of goods is one of the essential elements to be borne in mind in deciding the nature of the transaction. It was so decided in Tungabhadra Industries Ltd. v. Commercial Tax Officer, Kurnool [1960] 11 S.T.C. 827 (S.C.) : . In that case the question arising for decision was whether hydrogenated oil continued to be groundnut oil. This Court held that the hydrogenated groundnut oil continued to be groundnut oil. In arriving at that conclusion this Court took into consideration that the essential nature of the goods had not changed after the groundnut oil had been subjected to chemical process. Similar view was taken by this Court in State of Gujarat v. Sakarwala Brothers [1967] 19 S.T.C. 24 (S.C). Therein the question whether patasa, harda and alchidana could be considered as "sugar". This Court held that when sugar was processed into patasa, harda and alchidana, it did not change its essential characteristic. Its identity continued to be the same. Now, the question for our decision is whether it could be said that when paddy was dehusked and rice produced, its identity remained. It was true that rice was produced out of paddy but it is not true to say that paddy continued to be paddy even after dehusking. It had changed its identity. Rice is not known as paddy. It is a misnomer to call rice as paddy. They are two different things in ordinary parlance. Hence quite clearly when paddy is dehusked and rice produced, there has been a change in the identity of the goods. In this view it is not necessary for us to refer to the decisions of some of the High Courts read to us at the time of hearing.

6. There is yet another difficulty in the way of the appellants. Both the Punjab Sales Tax Act as well as that Act as amended by Haryana make a distinction between rice and paddy in their respective Sales Tax Acts. Rice and paddy are treated differently. It is true that the entries in question were brought on the statutes by notifications issued by the respective Governments, as authorised under the respective Acts. But the Acts authorised the Governments in question to either include or delete

items in Schedules C and D of those Acts and it further provided that once an inclusion or deletion was made, it became a part of the law. The fact that these Acts make distinction between rice and paddy is a circumstance of great significance. Those Acts proceed on the basis that paddy is something different from rice for the purpose of sales tax.

7. For the reasons mentioned above, we see no merit in these appeals. They are dismissed with costs, one hearing fee.