Supreme Court of India
Commissioner Of Sales Tax, ... vs Union Medical Agency on 8 October, 1980
Equivalent citations: 1981 AIR, 1 1981 SCR (1) 870
Author: P Bhagwati
Bench: Bhagwati, P.N.

PETITIONER:
COMMISSIONER OF SALES TAX, GUJARAT

Vs.

RESPONDENT:
UNION MEDICAL AGENCY

DATE OF JUDGMENT08/10/1980

BENCH:
BHAGWATI, P.N.
BENCH:
BHAGWATI, P.N.
SEN, A.P. (J)
VENKATARAMIAH, E.S. (J)

CITATION:
1981 AIR 1 1981 SCR (1) 870
1981 SCC (1) 51

ACT:
Bombay Sales Tax Act, 1959 as applicable to State of Gujarat-Interpretation of the expression "Registered dealer" in section 8(ii)-Whether it means only a dealer registered under section 22 of the Act or it also comprises a dealer registered in the Central Sales Tax Act, 1956-Rule in ex visceribus actus explained.

HEADNOTE:
Allowing the appeal by special leave and answering against the assessee, the Court.
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HELD: Per Bhagwati,J. (Concurring with Sen and Venkataramiah, JJ.)
(1) The expression "Registered dealer" is used in section 8 (ii) in its definitional sense to mean a dealer registered under section 22 of the Bombay Sales Tax Act and it does not include a dealer under the Central Sales Tax Act. [875A]
(2) The object of section 8 is to prevent a multiple point taxation on goods specified in Schedule C and for imposition of single point tax on them under the Act. If a dealer is registered only under the Central Act and not

under the Bombay Act, it would mean that he is not liable to pay tax under the Bombay Act and in that event, even if he has sold goods specified in Schedule 'C', to a registered dealer under an intra-State sale, no tax would be payable by him on such sale and if the purchasing dealer is also to be exempt from tax in respect of re-sale effected by him, the result would be that the goods would escape tax altogether and not suffer even single point tax. That is not the intendment of the legislature in enacting section 8(ii); on the contrary it would frustrate the very object of that section. The situation would be the same even where the sale effected by the dealer registered under the Central Act is an inter-State sale. That sale would undoubtedly be taxable under the Central Act but there is no reason why the Gujarat State would give exemption to re-sale of goods in respect of which, at the time of the first sale tax has been levied under the Central Act of which the benefit has gone to another State. Moreover, in such a case, the first sale being an inter-State sale, would be taxable at a fixed concessional rate under section 8(1)(a) or at the rate of 7% or at a rate equal to or twice the rate applicable to the sale of such goods in the State of the selling dealer, under clause (a) or (b) of sub-section (2) of section 8 of the Central Act and if that be so, it is difficult to understand why the Legislature should have insisted, for attracting the applicability of section 8(ii), that the goods re-sold by the dealer should at the time of their first sale be goods specified in Schedule 'C'. [873F-G, 874C-G]

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(3) Sections 4 and 8(ii) of the Bombay Act are distinct and independent provisions operating on totally different areas. The legal fiction in sub-section (1) of section (4) is created for a specific purpose and it is limited by the terms of sub-section (2) of section 4 and it cannot be projected in section 8(ii). If a dealer is not registered under the Bombay Act, it could only be on the basis that he is not liable to pay tax under the Bombay Act, but even so, section 4 sub-section (1) provides that if he is registered under the Central Act, he would be liable to pay tax under the Bombay Act in respect of the transactions of sale set out in that section. This liability arises despite the fact that the dealer, not being liable to pay tax under section 3 of the Bombay Act, is not registered under that Act. The dealer not being registered under the Bombay Act, the machinery of the Bombay Act would not of itself apply for the recovery of tax from him. Section 4 sub-section 2, therefore, enacts that every dealer who is liable to pay tax under sub-section (1) shall, for the purpose of sections 32 to 38 and 46 to 48 be deemed to be a registered dealer. Sections 32 to 38 and 46 to 48 are machinery sections and it is for the purpose of making the machinery of these sections applicable for recovery of the tax imposed on the dealer under sub-section (1) of section 4 that an artificial

fiction is created deeming the dealer to be a registered dealer, that is, a dealer registered under section 22 of the Bombay Act.

Per Sen, J. (On behalf of himself and Venkataramiah, J.).

(1) It is a well settled principle that when a word or phrase has been defined in the interpretation clause, prima facie that definition governs whenever that word or phrase is used in the body of the statute. But where the context makes the definition clause inapplicable, a defined word when used in the body of the statute may have to be given a meaning different from that contained in the interpretation clause; all definitions given in an interpretation clause, are, therefore, normally, enacted subject to the usual qualification -"unless there is anything repugnant in the subject or context", or "unless the context otherwise requires". Even in the absence of an express qualification to that effect such a qualification is always implied. The expression "registered dealer" having been defined in section 2(25) of the Bombay Act as having a particular meaning, that is, a dealer registered under section 22 of the Act, it is that meaning alone which must be given to it in interpreting clause (ii) of section 8 of the Bombay Act unless there is anything repugnant to the context [880B-D]

There being no obscurity in the language of clause (ii) of section 8 of the Bombay Act, it is clear that no deduction is claimable in respect of re-sales of goods purchased from a dealer registered under the Central Act, who is not a registered dealer within the meaning of section 2(25) of the Act. It follows that the expression "registered dealer" in clause (ii) of section 8 of the Act must bear the meaning of that expression as given in section 2(25) of the Act. If the meaning of the section is plain it is to be applied whatever the result, [879H-880A]

(2) The meaning of a word or expression defined may have to be departed from on account of the subject or context in which the word had been used and that will be giving effect to the opening sentence in definition section, namely, "unless the context otherwise requires". In view of this qualification, the Court has not only to look at the words but also to look at the context, the collocation and the object of such words relating to such matter and interpret the meaning intended to be conveyed by the use of the words in a particular section. But where there is no obscurity in the language of the section,

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there is no scope for the application of the rule ex visceribus actus. This rule is never allowed to alter the meaning of what is of itself clear and explicit. [881E-G]

Bywater v. Brandling, (1828) 7 B. & C. 645; Rein v. Lane, (1867) L.R. 2 Q.B. 144 and Jobbins v. Middlesex County Council, Craies, (1949) 1 K.B. 142, held inapplicable.

(3) The provisions of section 4, sub-section (3) of

section 7 and clause (ii) of section 8 of the Bombay Act operate in three different fields. While section 4 of the Act provides that a registered dealer under the Central Act who may not be liable to pay tax under section 3 of the Act may nevertheless in certain contingencies be liable to pay tax, sub-section (3) of section 7 provides for the levy of a single point tax on sale in the course of inter-State trade and commerce of declared goods, to bring the Act in conformity with clause (a) of section 15 of the Central Act. The object and purpose of enacting the provisions of section 8 are entirely different, namely, to lay down the mode of computation of the turnover of sales or purchases of a registered dealer for the imposition of a tax. Clause (ii) of section 8 allows for deduction of re-sale from the turnover of such registered dealer when the goods are purchased from a registered dealer, that is, a dealer registered under section 22 of the Act. In effect, section 8 deals with transactions of sale or purchase taking place within the State. The disallowance of deduction claimed by the assessee under clause (ii) of section 8 of the Act, therefore, would not result in double taxation of the same goods. [881H-882C, 883C]

While it is true that the Baroda dealer being a dealer registered under section 7 of the Central Sales Tax Act, in the instant case, was in certain contingencies, liable to pay tax under section 4 of the Act, but that circumstance by itself would not make him a "registered dealer" within the meaning of section 2(25) of the Act. If the legislature really intended that the expression "registered dealer" in clause (ii) of section 8 should take within its ambit a dealer registered under the Central Sales Tax Act, upon whom liability to pay sales tax is imposed by section 4 of the Bombay Act, it would have said so in the clear words s. (2) of s. 4. The legal fiction in sub-s. (2) of s. 4 is created for a limited purpose, namely, to make section 4 a self-contained code which not only imposes a charge of tax and lays down the rate structure, but also provides the machinery for assessment and recovery of tax and penalty. The legal fiction contained in sub-s. (2) of s. 4 of the Act cannot be stretched any further. [883D-E, G]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 631 of 1973.

Appeal by Special Leave from the Judgment and Order dated 14/16th November, 1970 of the Gujarat High Court in Sales Tax Reference No. 9/69.

R. P. Bhatt and S. P. Nayar for the Appellant. Appeal Set-down ex-Parte against respondent. The following Judgments were delivered.

BHAGWATI, J.-I have had the advantage of reading the judgment prepared by my learned brother Sen and I entirely agree with the conclusion reached by him, but I would like to state briefly my own reasons for arriving at that conclusion. The facts giving rise to this appeal have been stated with admirable succinctness by my learned brother Sen and I need not repeat them. The facts in deed are not material, because only one single question of law arises for determination in this appeal and it does not depend on any particular facts. The question is a very simple one, namely, whether the expression 'Registered dealer' in sec.8(ii) of the Bombay Sales Tax Act, 1959 as applicable to the State of Gujarat (hereinafter referred to as the Bombay Act) means only a dealer registered under section 22 of that Act or it also comprises a dealer registered under the Central Sales Tax Act, 1956 (hereinafter referred to as the Central Act).

Since the decision of this question turns on the true interpretation of the expression 'Registered dealer'. in sec.8(ii) of the Bombay Act, we may reproduce that section as follows:

> "Sec.8: There shall be levied a sales tax on the turn-over of sales of goods specified in Schedule C at the rate set out against each of them in column 3 thereof, but after deducting from such turnover-
>
> (i) * * * *
>
> (ii) resales of goods purchased by him on or after the appointed day from a Registered dealer if the goods at the time of their purchase were goods specified in Schedule C".

This section has obviously been enacted to prevent multiple point taxation on goods specified in Schedule C. Where goods specified in Schedule 'C' are sold by a dealer and obviously he must be a dealer registered under section 22 of the Bombay Act, if he is liable to pay tax under that Act-the turnover of these sales is liable to be taxed at the rate specified against each category of goods in that Schedule, but if the sales in question are re-sales of goods purchased by the dealer on or after the appointed day from a 'Registered dealer', they would be liable to be excluded from the turnover, because the 'Registered dealer' from whom they are purchased would have paid tax under the main part of section 8 and the goods having already borne tax in the hands of the selling 'Registered dealer', the legislative intent is that they should not suffer tax again. Now the expression 'Registered dealer' is defined in section 2(15) of the Bombay Act to mean "a dealer registered under section 22" and therefore, ordinarily, the expression 'Registered dealer' as used in section 8(ii) must carry the same meaning, namely, a dealer registered under section 22 of the Bombay Act. But, as the opening part of section 2 shows, the definitional meaning is subject to anything repugnant in the subject or context. The context in which the defined word occurs may clearly indicate that it is used in a sense different from that given in the definition clause. We must therefore see whether there is anything in section 8(ii) or in the context in which it occurs which should compel us to place on the expression 'Registered dealer' as used in that section a meaning different from that given to it in section 2(15). We are afraid we do not find anything in the subject or context of sec.8(ii) which would persuade us to depart from the definitional meaning of the expression 'Registered dealer'. The subject and context in fact re-enforce the view that the expression 'Registered dealer' in sec.8(ii) is used to mean

a dealer registered under sec.22 of the Bombay Act, and does not include a dealer registered only under the Central Act. If a dealer is registered only under the Central Act and not under the Bombay Act, it would mean that he is not liable to pay tax under the Bombay Act and in that event, even if he has sold goods specified in Schedule 'C', to a registered dealer under an intra-State sale, no tax would be payable by him on such sale and if the purchasing dealer is also to be exempt from tax in respect of re-sale effected by him, the result would be that the goods would escape tax altogether and not suffer even single point tax. That surely could not have been the intendment of the legislature in enacting section 8(ii). It would indeed frustrate the object of section 8(ii) which is to provide for imposition of single point tax on the goods specified in Schedule 'C'. The situation would be the same even where the sale effected by the dealer registered under the Central Act is an inter-State sale. That sale would undoubtedly be taxable under the Central Act, but it is difficult to see why the Gujarat State should give exemption to re-sale of goods in respect of which, at the time of the first sale, tax has been levied under the Central Act of which the benefit has gone to another State. Moreover, in such a case, the first sale being an inter-State sale, would be taxable at a fixed concessional rate under section 8(1)(a) or at the rate of 7% or at a rate equal to or twice the rate applicable to the sale of such goods in the State of the selling dealer, under clause (a) or (b) of sub-section (2) of sec. 8 of the Central Act and if that be so, it is impossible to understand why the Legislature should have insisted, for attracting the applicability of section 8(ii), that the goods resold by the dealer should at the time of their first sale be goods specified in Schedule 'C'. The requirement that the goods at the time of their first sale by the 'Registered dealer' should be of one of the categories specified in Schedule 'C', is a clear pointer that the 'Registered dealer' contemplated in this provision is a dealer registered under section 22 of the Bombay Act, because it is only with reference to such a dealer liable to pay tax under the Bombay Act that this requirement of the goods sold by him being goods specified in Schedule 'C' can have any meaning and significance. We are, therefore, clearly of the view that the expression 'Registered dealer' is used in section 8(ii) in its definitional sense to mean a dealer registered under section 22 of the Bombay Act and it does not include a dealer registered under the Central Act.

The Revenue, however, relied on section 4 of the Bombay Act and tried to project it in the interpretation of the expression 'Registered dealer' in section 8(ii). We fail to see how section 4 can at all help in throwing light on the true interpretation of the expression 'Registered dealer'. That section provides:

> "Sec. 4(1): Notwithstanding anything in section 3, a dealer who is registered under the Central Sales Tax Act, 1956, but who is not liable to pay tax under the said section 3, shall nevertheless be liable to pay tax-
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> (a) on Sales of goods is respect of the purchase of which he has furnished a declaration under sub-sec. (4) of section 8 of the Central Sales Tax Act, 1956, and
>
> (b) on sales of goods in the manufacture of which the goods so purchased have been used; and accordingly, the provisions of sections 7 to 12 (both inclusive) shall apply to such sales, as they apply to the sales made by a dealer liable to pay tax under section 3.

(2) Every dealer who is liable to pay tax under sub-section (1) shall, for the purposes of sections 32, 33, 35, 36, 37, 38, 46, 47 and 48 be deemed to be a Registered dealer."

It is obvious that if a dealer is not registered under the Bombay Act, it could only be on the basis that he is not liable to pay tax under the Bombay Act, but even so, section 4, sub-section (1) provides that if he is registered under the Central Act, he would be liable to pay tax under the Bombay Act in respect of the transactions of sale set out in that section. This liability arises despite the fact that the dealer, not being liable to pay tax under section 3 of the Bombay Act, is not registered under that Act. The question then would be: if the dealer is not registered under the Bombay Act, how to recover the tax from him? The dealer not being registered under the Bombay Act, the machinery of the Bombay Act would not of itself apply for recovery of tax from him. Section 4, sub-section (2) therefore enacts that every dealer who is liable to pay tax under sub-section (1) shall, for the purposes of sections 32 to 38 and 46 to 48 be deemed to be a Registered dealer. Sections 32 to 38 and 46 to 48 are machinery sections and it is for the purpose of making the machinery of these sections applicable for recovery of the tax imposed on the dealer under sub- section (1) of section 4 that an artificial fiction is created deeming the dealer to be a Registered dealer, that is, a dealer registered under section 22 of the Bombay Act. This legal fiction is created for a specific purpose and it is limited by the terms of sub-section 2 of section 4 and it cannot be projected in section 8(ii). Section 4 has, in fact, nothing to do with section 8(ii). They are distinct and independent provisions operating on totally different areas, and it is difficult to see how section 4 can be availed of for the purpose of interpreting the expression "Registered dealer" in section 8(ii).

I would therefore set aside the judgment of the High Court under appeal and answer the question referred by the Tribunal in favour of the Revenue and against the assessee. There will be no order as to costs of the appeal.

SEN, J.-This appeal, by special leave, is from a judgment of the Gujarat High Court, upon a question of law referred to it under sub-s.(1) of s.61 of the Bombay Sales Tax Act, 1959 (hereinafter referred to as 'the Act'). By that judgment the High Court answered the question referred in the affirmative and in favour of the assessee. The point involved is of considerable importance.

The facts giving rise to the reference were these: Messrs Union Medical Agency, Ahmedabad was, at all material times, carrying on business in spirit and alcohol, and was a dealer registered under s.22 of the Act (hereinafter referred to as 'the assessee'). In the assessment year 1964- 65, the corresponding accounting year of which was the year ending March 31, 1965, the assessee claimed deduction from its turnover in respect of resales of certain goods purchased from one Motibhai Gopalbhai Patel of Baroda who, at the relevant time, was a dealer registered under s.7 of the Central Sales Tax Act, 1956 (hereinafter referred to as 'the Central Act'), but was not a dealer registered under s. 22 of the Act. The Sales Tax Officer rejected the claim of the assessee for such deduction on the ground that the said Motibhai Gopalbhai Patel from whom the goods were purchased was not a registered dealer within the meaning of cl.(ii) of s.8 of the Act inasmuch as he was not registered as a dealer under s.22 of the Act. The assessee appealed to the Assistant Commissioner of Sales Tax, the only material ground being that the expression 'registered dealer' in cl.

(ii) of s. 8 of the Act was wide enough to include a registered dealer under the Central Sales Tax Act but the Assistant Commissioner affirmed the disallowance of the deduction. On further appeal, the Gujarat Sales Tax Tribunal agreeing with the Sales Tax Authorities, held that in order to claim deduction from the turnover of sales of goods under cl. (ii) of s. 8 of the Act, what was required to be shown was that the goods were purchased by the dealer on or after the appointed day from a 'registered dealer' under the Act, and that in view of the definition of the expression 'registered dealer' in sub-s.(25) of s.2 of the Act, such dealer had to be a dealer registered under s.22 of the Act. The Tribunal accordingly held that since Motibhai Gopalbhai Patel, the Baroda dealer, from whom the assessee had purchased the goods, was not a registered dealer under the Act, therefore the requirements of cl.(ii) of s.8 of the Act were not fulfilled, and the claim for deduction made by the assessee had been rightly disallowed. On the application of the assessee, the Tribunal referred the following question of law to the High Court under sub-s. (1) of s. 61 of the Act, for its opinion, namely:

> "Whether for the purpose of allowing deduction from the turnover of sales under clause (ii) of section 8 of the Bombay Sales Tax Act, 1959, purchases of goods made by a dealer registered under the Bombay Sales Tax Act, 1959 from a dealer registered under the Central Sales Tax Act, 1956 but not registered under the Bombay Sales Tax Act. 1959 can be said to be purchases of goods made from a registered dealer within the meaning of clause (ii) of section 8 of the Bombay Sales Tax Act, 1959."

It appears that the High Court was not satisfied at this formulation as it felt that the statement of the case as made by the Tribunal did not bring out the real question of law arising out of its order. At the instance of the assessee, it re-framed the question in the following terms:

> "Whether for the purpose of allowing deduction from the turnover of sales under clause (ii) of section 8 of the Bombay Sales Tax Act, 1959, purchases of goods made by a dealer registered under the Bombay Sales Tax Act, 1959 from a dealer who is registered under the Central Sales Tax Act, 1956 and who is liable to pay tax under section 4 of the Bombay Sales Tax Act, 1959 though not registered under the Bombay Sales Tax Act, 1959 can be said to be purchases of goods made from a registered dealer within the meaning of clause (ii) of section 8 of the Bombay Sales Tax Act, 1959."

We feel that the High Court was not justified in re-framing the question as referred. It is nobody's case that Motibhai Gopalbhai Patel, the Baroda dealer from whom the assessee had purchased the goods, had ever paid any tax on the sales effected by him under s.4 of the Act. Nor is there any material on record to suggest that any proceedings were started against the Baroda dealer for subjecting the transactions to tax.

In answering the reference in the affirmative, in favour of the assessee and against the Commissioner of Sales Tax, the High Court observes:

> "The result of the foregoing discussion is that having regard to the context, collocation and the object of the expression 'registered dealer' in clause
>
> (ii) of section 8 of the Bombay Act, and having regard to the policy of the Act, the said expression would also include a dealer registered under the Central Act on whom special liability to pay sales tax has been imposed under section 4 of the Act. A dealer who purchases goods from a dealer registered under the Central Act, who is liable to pay sales tax on the sale of the said goods by virtue of the provisions of section 4 of the Bombay Act, would, therefore, be entitled to deduct from his turnover of sales of goods, resales of goods so purchased by him on or after the appointed day if the goods, at the time of their purchase, were goods specified in Schedule C."

This conclusion of the High Court can hardly be supported.

The short question that falls for determination in the appeal is whether the expression 'registered dealer' in cl.(ii) of s.8 of the Act must bear the meaning that is assigned to it in s. 2(25) which is the definition section, or the said expression is capable of bearing an enlarged meaning, in view of the subject and context in which it is used in cl.(ii) of s.8 of the Act.

The decision of the appeal must turn on the construction of cl.(ii) of s.8 of the Act, which provides:

> "8. There shall be levied a sales tax on the turnover of sales of goods specified in Schedule C at the rate set out against each of them in column 3 thereof, but after deducting from such turnover:-
>
> (i) * * * * * * *
>
> (ii) resales of goods purchased by him on or after the appointed day from a Registered dealer if the goods at the time of their purchase were goods specified in Schedule C."

In the Act, the expression 'registered dealer' is defined in s. 2(25) in these terms:

> "2. In this Act, unless the context otherwise requires,-
>
> (25) "Registered dealer" means a dealer registered under section 22."

The error in the decision of the High Court lies in its misunderstanding of the scope and effect of s. 4 of the Act, which it has tried to project into cl. (ii) of s. 8 and it reads as follows:

> "4. (1) Notwithstanding anything in section 3, a dealer who is registered under the Central Sales Tax Act, 1956, but who is not liable to pay tax under the said section 3, shall nevertheless be liable to pay tax-

(a) on sales of goods in respect of the purchase of which he has furnished a declaration under sub section (4) of section 8 of the Central Sales Tax Act, 1956, and

(b) on sales of goods in the manufacture of which the goods so purchased have been used, and accordingly, the provisions of sections 7 to 12 (both inclusive) shall apply to such sales, as they apply to the sales made by a dealer liable to pay tax under section 3.

(2) Every dealer who is liable to pay tax under sub-section (1) shall, for the purposes of sections 32, 33, 34, 35, 36, 37, 38, 46, 47 and 48 be deemed to be a Registered dealer."

Sub-section (3) of s. 7 reads:

"7.(3) In order to ensure that after the date of the coming into force of section 15 of the Central Sales Tax Act, 1956, tax shall not be levied on the sales or purchases of Declared goods at more than one stage, it is hereby provided that if under this Act or any earlier law, any tax has been levied or is leviable on the sale or purchase of such goods then no further tax shall be levied under this Act on any subsequent sale or purchase thereof; and accordingly, for the purpose of arriving at the taxable turn over of sales or purchases of a dealer, there shall be deducted from his total turnover of sales, or as the case may be, of purchases, the sales or purchases of such declared goods as have borne tax at any earlier stage." There is no obscurity in the language of cl. (ii) of s.

8 of the Act. It is clear from the terms of cl. (ii) of s. 8 that no deduction is claimable in respect of resales of goods purchased from a dealer registered under the Central Act, who is not a registered dealer within the meaning of s. 2(25) of the Act. It follows that the expression 'registered dealer' in cl. (ii) of s. 8 of the Act must bear the meaning of that expression as given in s. 2(25) of the Act. If the meaning of the section is plain, it is to be applied whatever the result.

It is a well settled principle that when a word or phrase has been defined in the interpretation clause, prima facie that definition governs whenever that word or phrase is used in the body of the statute. But where the context makes the definition clause inapplicable, a defined word when used in the body of the statute may have to be given a meaning different from that contained in the interpretation clause; all definitions given in an interpretation clause are, therefore, normally enacted subject to the usual qualification-'unless there is anything repugnant in the subject or context', or 'unless the context otherwise requires'. Even in the absence of an express qualification to that effect such a qualification is always implied.

The expression 'registered dealer' having been defined in s.2(25) of the Act as having a particular meaning, i.e., a dealer registered under s. 22 of the Act, it is that meaning alone which must be given to it in interpreting cl.

(ii) of s.8 of the Act, unless there is anything repugnant to the context. It was not permissible for the High Court to ignore a statutory definition and give to the expression a wider meaning independent of it. There is nothing to suggest that the expression 'registered dealer' is used in cl. (ii) of s.8 of the Act in any different sense from that in' which it is defined. It is significant to notice that whenever the legislature wanted that the expression 'registered dealer' should have a different meaning, it has expressly said so. Thus in sub-s.(1) of s.4 it mentions of 'a dealer who is registered under the Central Sales Tax Act, 1956'. The distinction between the two classes of dealers is, therefore, clearly maintained.

The High Court was obviously wrong in not interpreting the expression 'registered dealer' in the context of cl.

(ii) of s.8 but with reference to the other provisions of the Act, particularly in the light of s. 4 of the Act, to give effect to the so-called legislative intent for the levy of a single point tax. It was in error in making an exposition ex visceribus actus and in relying upon the leading cases of Bywater v. Brandling, Rein v. Lane, Jobbins v. Middlesex Country Council Craies on Statute Law, 6th ed., 99, and Maxwell on Interpretation of Statutes, 8th ed., 30.

The High Court expresses the view that the legislative intent in enacting cl. (ii) of s.8 of the Act is two-fold (1) to restrict the levy of sales tax to a single point and to avoid multiple levy of sales tax on goods, and (2) that sales tax should be levied at the stage of the first sale and should be recovered from the registered dealer who effects the first sale and that all subsequent sales of such goods should not be subjected to sales tax over again. In the light of this so-called legislative intention and the policy of the Act, the High Court observes that 'having regard to the context, collocation and the object of the expression 'registered dealer' in cl.(ii) of s.8 of the Act', and 'having regard to the legislative intent, namely, to levy a single point tax under sub-s.(3) of s.7 of the Act', the expression 'registered dealer' in cl. (ii) of s.8 would also include a dealer registered under the Central Sales Tax Act, 1956, on whom a special liability to pay sales tax has been imposed under s.4. Upon that view, it held that a dealer who purchased goods from a dealer registered under the Central Act, who was liable to pay sales tax on the sale of such goods by virtue of the provisions of s.4 of the Act, would be entitled to deduct from his turnover of sales of goods, resales of goods so purchased by him on or after the appointed day if the goods at the time of their purchase, were goods specified in Schedule C of the Act. It accordingly held that the meaning of the expression 'registered dealer' in cl.(ii) of s.8 was not limited only to a dealer registered under the Act but it was wide enough to also include a dealer registered under the Central Act.

There is no dispute with the proposition that the meaning of a word or expression defined may have to be departed from on account of the subject or context in which the word had been used and that will be giving effect to the opening sentence in definition section, namely 'unless the context otherwise requires'. In view of this qualification, the Court has not only to look at the words but also to look at the context, the collocation and the object of such words relating to such matter and interpret the meaning intended to be conveyed by the use of the words in a particular section, there is no scope for the application of the rule ex visceribus actus. This rule is never allowed to alter the meaning of what is of itself clear and explicit. The authorities relied upon by the High Court are,

therefore, not applicable.

While accepting that sub-s.(3) of s.7 of the Act was to give effect to cl.(a) of s.15 of the Central Act, and therefore cannot control the interpretation of cl.(ii) of s.8, the High Court commits the mistake of interpreting the expression 'registered dealer' appearing therein, in the context of s.4 of the Act. The provisions of s.4, sub-s.(3) of s.7 and cl.(ii) of s.8 of the Act operate in three different fields.

While s.4 of the Act provides that a registered dealer under the Central Act who may not be liable to pay tax under s.3 of the Act may nevertheless in certain contingencies be liable to pay tax, sub-s. (3) of s.7 provides for the levy of single point tax on sales in the course of inter-state trade and commerce of declared goods, to bring the Act in conformity with cl.(a) of s.15 of the Central Act. The object and purpose of enacting the provisions of s.8 are entirely different, namely, to lay down the mode of computation of the turnover of sales or purchases of a registered dealer for the imposition of a tax. Clause (ii) of s.8 allows for deduction of resales from the turnover of such registered dealer when the goods are purchased from a registered dealer, i.e., a dealer registered under s.22 of the Act. In effect, s.8 deals with transactions of sale or purchase taking place within the State.

There is a fallacy in the reasoning of the High Court. It seems that the High Court was obsessed with two factors, namely (1) the concept of a single point tax under sub-s.(3) of s.7 of the Act, and (2) the fact that a registered dealer under the Central Act who may not be liable to pay tax under s.3 of the Act may nevertheless in certain contingencies be liable to pay tax. It failed to appreciate that cl.(ii) of s.8 which allows for deduction of sales by one registered dealer to another, deals purely with inside sales. The expression 'registered dealer' in cl.(ii) of s.8 is sought to be given an enlarged meaning by stretching, in effect, the legal fiction contained in sub-s.(2) of s.4. After observing that the legal fiction in sub-s.(2) of s.4 is created for a limited purpose, it goes on to observe:

> "It would, therefore, have been inappropriate or at any rate wholly inartistic for the legislature to provide in sub-section (2) of section 4 that every dealer who is liable to pay tax under sub-section (1) shall be deemed to be a registered dealer for the purpose of clause (ii) of section 8 since the latter section provides for the levy of sales tax on sales of goods of an altogether different dealer after making certain deduction from the turnover of sales of goods of such dealer. The legislature could have made a specific provision, if any, in this behalf only in clause (ii) of section 8 and not in sub-section (2) of section 4."

The High Court proceeds on the hypothesis that the transactions in question must have been brought to tax in the hands of the Baroda dealer and, therefore, it became necessary to avoid multiple levy of sales tax. On that assumption, it felt that it was necessary to give to the assessee the benefit of s.8(ii) of the Act although the Baroda dealer was not a registered dealer within the meaning of s. 2(25) i.e., registered as a dealer under s. 22 of the Act. We regret to say that in reaching that conclusion, the High Court has proceeded on mere conjectures and surmises. For aught we know, the Baroda dealer at the relevant time, might not be engaged in the business of selling goods in the State of Gujarat and was, therefore, not a dealer liable to pay tax at all. Perhaps he was primarily engaged in effecting sales in the course of inter-State trade and commerce, or it

may be that the inside sales effected by him did not exceed the taxable limits. Both the parties proceeded upon the basis that the purchases effected by the assessee were not subjected to tax. It was, therefore, not right for the High Court to hold that the disallowance of deduction claimed by the assessee under cl.(ii) of s.8 of the Act would result in double taxation of the same goods.

It is evident that the High Court has completely misdirected itself. The transactions of sales effected by the Baroda dealer to the assessee who was a dealer at Ahmedabad, were clearly inside sales. While it is true that the Baroda dealer being a dealer registered under s.7 of the Central Sales Tax Act was, in certain contingencies, liable to pay tax under s.4 of the Act, but that circumstance by itself would not make him a 'registered dealer' within the meaning of s. 2(25) of the Act.

If the legislature really intended that the expression 'registered dealer' in cl.(ii) of s.8 should take within its ambit a dealer registered under the Central Sales Tax Act, upon whom liability to pay sales tax is imposed by s.4 of the Bombay Act, it would have said so in clear words. It would have made necessary provision in that behalf in sub- s.(2) of s.4 which provides that every dealer liable to pay tax under sub-s.(1) shall be deemed to be a registered dealer for purposes of certain sections of the Bombay Act viz., ss. 32, 33, 34, 35, 36, 37, 38, 46, 47 and 48.

It is thus apparent that the legal fiction in sub-s.(2) of s.4 is created for a limited purpose, namely, to make section 4 a self-contained code which not only imposes a charge of tax and lays down the rate structure, but also provides the machinery for assessment and recovery of tax and penalty. The legal fiction contained in sub-s.(2) of s.4 of the Act cannot be stretched any further.

For these reasons, the judgment of the High Court answering the reference in favour of the assessee is set aside. The question referred by the Tribunal is answered in the negative and in favour of the Revenue. There shall be no order as to costs.

S.R. Appeal allowed.