Supreme Court of India
B.G. Somanna & Sons Etc. vs State Of Andhra Pradesh And Ors. on 21 July, 1972
Equivalent citations: AIR 1972 SC 2227 b, (1974) 3 SCC 235
Author: M Beg
Bench: A Ray, D Palekar, I.D.Dua, M Beg
JUDGMENT M.H. Beg, J.

1. In these appeals by Certificate only one question of law has been argued. It may be formulated as follows:

Is any part of the provisions of Item 6 of Schedule III of the Andhra Pradesh General Sales Tax Act (6 of 1957) (hereinafter referred to as 'the Act') relating to the point of levy void for contravening Section 15(a) of the Central Sales Tax Act, 1956?

Each of the appellants before us is a miller and one of a large number of such millars who had applied to the High Court of Andhra Pradesh, under Article 226 of the Constitution, for a Writ of Prohibition .against proceedings for assessment of Sales Tax taken on the strength of an allegedly void provision of law. The validity ,' Item 6 of Schedule III of the Act was challenged on a number of grounds in the High Court which need not be mentioned here as the only ground which has been argued before us is covered by the question formulated above.

2. It may be mentioned that none of the appellants set out facts showing the nature of the demand in the proceedings under the Act against] them, or, the extent, if any, to which each petitioner, who is a miller, registered also as a dealer under the Act as well as under the Central Act, sell groundnuts, or, whether groundnuts were purchased specifically only for purposes of crushing them and converting them into oil or into any other product or for the purpose of sale as well. They have merely questioned the validity of Item ,6 of Schedule III of the Act by reason of alleged conflict with Section 15 of the Central Ad so that all we need do is to set out the two provisions and give our reasons for our conclusions. We have already dismissed the appeals after hearing them. We now proceed to record our reasons Item 6 of Schedule III reads as follows:

Description Point of levy. Rate of of goods. tax ---------- ---------- ---------- Groundnuts. when purchased by 3nava a millar other than paisa a decorticating in the miller in the rupee State at the point of purchase by such miller, and, in all other cases at the point. of purchase by the last dealer who buys in the State.

Groundnuts have been declared as goods of special importance in inter-State trade or commerce under Section 14 of the Central Act. Section 15 of the Central Act lays down:

15. Every sales tax law of a State shall, in so far as it imposes or authorizes the imposition of a tax on the sale or purchase of declared goods, be subject to the following restrictions and conditions, namely:

(a) the tax payable under that law in respect of any sale or purchase of such goods inside the State shall not exceed three per cent of the sale or purchase price thereof, and such tax shall not be levied at more than one stage;

(b) where a tax has been levied under that law in respect of the sale or purchase inside the State of any declared goods and such goods are sold in the course of inter-State trade or commerce, the tax so levied shall be re funded to such person in such manner and subject to such conditions as may be provided in any law in force in that State.

It may be mentioned that, in so far as the rate of tax specified in Item 6. Schedule III of the Act is concerned, the Andhra Pradesh High Court had itself given some relief to the appellants on the ground that the definition of turn-over under the Act could include what is more than the sale price as defined by the Central Act, so that the rate may exceed the limit imposed by Section 15(a) of the Central Act. We are, therefore, no longer concerned with the question of rate but only with that part of Item 6, Schedule III, which makes millers other than decorticating millers liable to pay the tax when they purchase groundnuts.

3. It is contended that the groundnuts purchased by the appellants would be taxed at the point of purchase by them and also again in the hands of "last dealers" to whom they may sell. The short answer to this argument could be that the validity of the levy of a tax upon a purchase by a last dealer could be questioned by one of the appellants only if he was being taxed as a last dealer and not as a miller. It is apparent that they are being taxed at the point of purchase by them as millers only. When they purchase groundnuts as millers they do so presumably in order to convert the groundnuts into another product altogether, and they would, therefore, presumably be last purchasers of ground-nuts as "groundnuts". They may be selling their products in forms other than groundnuts. The appellants are, however, not questioning the validity of a tax upon any sales of these other products. They are questioning the validity of the tax on groundnuts purchased by them. They submit that only one point of taxation can be provided for these sales by as State law. We will, therefore, consider this ground.

4. It is clear to us that, in such cases, the liability to pay tax, which is a tax on purchase, falls only at one point. In fact, the question raised before us seems to us to be covered by a decision of this Court on Item 6 of Schedule III in Sri Venkateswara Rice, Ginning & Groundnut Oil Mill Contractors Co v. The State of A.P. where this Court said at page 53:

None of the assesses before us is a decorticating miller. Hence we have to see whether the purchases of ground-nut made by them did not become taxable as soon as they made those purchases. It is now well settled that even under the Sales Tax Laws, the charge in respect of a sale or purchase becomes effective as soon as the sale in the case of purchase tax is made, though the liability of the dealer can be computed only at the end of the year. The incurring of the charge is one thing and its computation is a totally different thing. Hence the turnover relating to the purchases with which we are concerned in these appeals became charged with the liability to pay tax as soon as those purchases were made by the assessee-millers. To restate the position whenever a miller purchases groundnut, the turnover relating to that purchase become eligible to tax subject to such exemptions

as may be given under the Act. This means that as soon as a first miller purchases ground-nut, the turnover relating to that purchase, the question of exemption apart, becomes liable to tax. This is also the view taken by the High Court.

It may be mentioned here that, in the above mentioned case, the assessees had already been taxed and one of the arguments advanced there was that the part of the taxed turnover which was sold by the assessee miller to other millers should be excluded because it was not dealt with by him as a miller but as a dealer who was not the last purchaser. This Court said:

The next argument advanced on behalf of the assessees is that in the case of some of the assessees a part of the groundnut purchased had been sold to other millers; hence in those cases, the assessees must be taxed only in respect of that part of the turnover which relates to groundnut which they had crushed for extracting oil and in the case of remaining part, it is the last dealer who purchased the same should be taxed. This contention again is unacceptable. As mentioned earlier the event which attracted tax is the act of the miller purchasing groundnut and not his act of crushing the groundnut purchased or dealing with that groundnut in any other manner. We have earlier mentioned that very act of purchase by a miller attracts the liability to pay tax under Section 5 read with Schedule 3, Item 6. This subsequent dealings in those goods become irrelevant. In none of the cases before us it was shown that any of the assessees had purchased groundnuts with a view to sell them. Hence we need not go into the question as to what would be the position in law where a miller purchases some ground-nut for milling and the rest for sale.

5. In the cases before us also we need not consider the position of a miller who purchases some groundnuts for milling and the rest for sale. It is clear that each of the appellants becomes liable to the payment of tax as a purchasing miller just as a last dealer would be liable on the purchases made by him. Hence, the last dealer and the miller, who purchases presumably to convert the groundnuts into other products, are placed on an equal footing. We were not satisfied that there is a possibility of double taxation or of taxation of the same product at more than] one point of purchase.

6. These appeals were, therefore, dismissed by us on 1-5-1972. The respondents are entitled to their costs in this Court