

Supreme Court of India

Gopuram Gram Mill Co. And Ors. vs State Of A.P. And Ors. on 23 August, 1994

Equivalent citations: (1998) 8 SCC 668

Bench: S Bharucha, S Sen, K Paripoornan

ORDER

1. Special leave has been granted in this batch of appeals limited to the question whether Entry 147 of the Andhra Pradesh General Sales Tax Act, 1957 relating to fried or parched gram dal, is valid or not. The said entry prescribes tax at the rate of 5 paise in the rupee for parched and fried Bengal gram or dal other than that obtained from gram or dal that has met tax under the said State Act, whereon tax is prescribed at the rate of 1 paisa in the rupee.

2. The contention of the appellant was that the provision in the said entry was contrary to the restriction contained in Section 14 read with Section 15 of the Central Sales Tax Act, 1956. The Andhra Pradesh High Court, in the judgment under appeal, disagreed with the view so taken by a Single Judge of the Madras High Court, finding no discussion in his judgment as to the meaning of the expressions concerned. The judgment under appeal noted that Section 15(d) of the Central Act, while taking care to mention that pulses, whole or separated, with husks or dehusked, should be treated as a single commodity, did not mention fried dal.

3. The contention of learned counsel for the appellants before us is that gram is gram, parched or fried.

4. Section 14 of the Central Act declares the goods therein mentioned to be goods of special importance in inter-State trade or commerce. Item (vi-a) thereof refers to "pulses, that is to say -- (i) gram or gulab gram (*Cicerarietinum L.*)". Section 15 states that every sales tax law of a State shall, insofar as it imposes or authorises the imposition of a tax on the sale or purchase of declared goods, be subject to the restrictions and conditions therein mentioned, which include, in Clause (d), this: "Each of the pulses referred to in Clause (vi-a) of Section 14, whether whole or separate, and whether with or without husk shall be treated as a single commodity for the purposes of levy of tax under that law."

5. Our attention was invited by learned counsel for the appellants to the judgment of a learned Single Judge of the Madras High Court in *S.K. Nataraja Mudaliar and Co. v. State of T.N.*, (1982) 51 STC 55 (Mad) The learned Single Judge held, on the basis of the dictionary meaning of gram as meaning pulses generally, that the term pulses and gram used in the Central Act must be taken to cover pulses of all kinds and grams of all kinds, for even parched gram or fried gram in common parlance was still known as gram or dal. Reference was also made by counsel to the Division Bench judgment of the Madras High Court in *R. Shanmugam Pillai and Co. v. State of T.N.*, (1990) 76 STC 303 (Mad) where the judgment aforementioned was approved but no separate reasoning was given.

6. Item (vi-a) of Section 14 of the Central Act refers to "pulses, that is to say,..." and that the expression "that is to say" has been held by this Court in *Rajasthan Roller Flour Mills' Assn. v. State of Rajasthan*, to mean "to make clear and fix the meaning of what is to be explained or defined". The

words, it was said, are not used as a rule to amplify the meaning and in the context of a single point sales tax they exhaustively enumerate the kind of goods in a given list. That judgment also holds that the provisions of Sections 14 and 15 of the Central Act, being restrictions upon the plenary powers of State Legislatures to levy tax on the sale or purchase of goods, must be construed strictly. In other words, the restriction must be limited to the goods expressly mentioned and nothing more must be read into it except what is clearly stated.

7. Sub-item (j) of item (vi-a) of Section 14 refers to "gram or gulab gram (*Cicerarietinum* L.)". It seems to us, in the first place, that gram or gulab gram which has undergone the process of parching or frying would no longer be gram to which the botanical term specified can be applied. Next, Section 15(d) specifically amplifies the content of sub-item (j) of item (vi-a) of Section 14 to pulses referred to therein "whether whole or separate, arid whether with or without husk". In express terms, therefore, the restriction is limited only to whole or separated gram or gulab gram and gram or gulab gram with husk or dehusked. Section 15 being so specific, it is impermissible to read it as applicable to gram which has been parched or fried. Lastly, the gram having undergone the process of parching or frying would appear to have become a new and distinct commodity and no evidence has been let in on behalf of the appellants to prove the contrary.

8. Before we close, we may mention that learned counsel for the appellants relied upon this Court's judgment in *Telangana Steel Industries v. State of A.P.*, but we find it to be of no assistance here,

9. In the result the appeals are dismissed. No order as to costs.