Supreme Court of India
Krishi Utpadan Mandi Samiti And ... vs Shankar Industries And Ors. Etc on 11 February, 1993
Equivalent citations: 1993 SCR (1)1037, 1993 SCC Supl. (3) 361
Author: N Kasliwal
Bench: Kasliwal, N.M. (J)

PETITIONER:
KRISHI UTPADAN MANDI SAMITI AND ANR. ETC.

Vs.

RESPONDENT:
SHANKAR INDUSTRIES AND ORS. ETC.

DATE OF JUDGMENT11/02/1993

BENCH:
KASLIWAL, N.M. (J)
BENCH:
KASLIWAL, N.M. (J)
YOGESHWAR DAYAL (J)

CITATION:
1993 SCR (1)1037 1993 SCC Supl. (3) 361
JT 1993 (1) 601 1993 SCALE (1)615

ACT:
U.P. Krishi Utpadan Mandi Adhiniyam 1964:
Section 2(a) 'Agricultural produce-Levy of market fee-Gur lauta, raskat, rab galawat, rab salawat-Held exigible to market fee.

HEADNOTE:
Section 2(a) of the U.P. Krishi Utpadan Mandi Adhiniyam of 1964 defined 'agricultural produce'. The words 'gur, rab, shakkar, Khandasari and jaggery', were added in the said definition by U.P. Act No. 10 of 1970.
A Division Bench of the Allahabad High Court referred the question whether gur-lauta and raskat and rab-salawat are liable to the law, of market fee under the U.P. Krishi Utpadan Mandi Adhiniyam of 1964 to a Full Beach. The Full Bench held that gur-lauta and raskat and rabgalawat and salawat were not an 'agricultural produce' within the meaning of the Act, and other Benches followed the Full Bench.
In the appeals to this Court, it was contended on behalf of the appellants that when gur khandsari and shakkar have been added in the definition of 'agricultural produce' rab-galawat. or rab-salawat being the inferior forms of the rab are necessary an agricultural produced within the definition

of agricultural produce. On behalf of the respondents it was contended that the Full Bench was right in taking the view that molasses are a different product which looses its original character and being a residual article after solidification of the natural article i.e., sugarcane juice, it cannot be said to be an agricultural produce, that molasses itself being not an agricultural produce, gur lauta and raskat prepared from molasses cannot be held to be an agricultural produce.

Allowing the appeals, this Court,

HELD: 1. A persual of the definition of agricultural produce' under Section 2(a) of the Act shows that apart from items of produce of agriculture, horitculture, viticulture, apiculture, sericulture, pisciculture, 1037

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animal husbandry or forest as are specified in the Schedule, the definition further 'includes admixture of two or more such items' and thereafter it further 'includes taking any such item in processed from' and again for the third time the words used are land further includes gur, rab, shakkar, khandsari and jaggery. [1041C]

2. It is a well settled rule of interpretation that where the legislature used the words 'means' and 'includes' such definition is to be given a wider meaning and is not exhaustive or restricted to the items contained or included in such definition. [1041D]

3. The meaning of 'agricultural produce' in the above definition is not restricted to any products of agriculture as specified in the Schedule but also includes such items which come into being in processed form and further includes such items which are called as gur, rab, shakkar, khandsari and jaggery. [1041E]

4. Gur-lauta or raskat and rab-salawat made from sugarcane or from molasses shall fall within the definition of 'agricultural produce' as contained in Section 2(a) of the Uttar Pradesh Krishi Utpadan Mandi Adhiniyam, and are exigible to market fee. The view taken by the Full Bench of the High Court is not correct [1042C, 1043D]

Rathi Khandsari Udyog etc. v. State of U.P. & Ors. etc., [1985] 2 S.C.R. 966; Kishan Lal and Ors. v. State of Rajasthan & Ors., [1990) 2 S.C.R. 142; and Bharat Trading v. State of U.P. & Ors., WP (C) No. 9982 decided on 31st March, 1992, referred to.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3111-16 of 1991.

From the Judgment and Order dated 2.4.90 of the Allahabad High Court in W.P. No. 5627, 6163/88, 1193, 8415, 10360/89 and 1076 of 1990.

WITH Civil Appeal Nos. 580 to 606 of 1993 & 4416 of 1991 E.C. Agrawala, Anant V. Palli, Atual Sharma, Mrs. Purnima B at Kak, Mrs. Rekha Palli and Pradeep Misra for the Appellants.

C.S. Vaidyanathan, R.K. Jain Ms. Bharti Sharma, Mrs. Rani Chhabra, K.B. Rohtagi and Ms. Aparna Rohtagi for the Respondents.

The Judgment of he Court was delivered by KASLIWAL, J. Computer Code No. 12964 of 1991.

(In S.L.P. (C) No. of 1991) Delinked. See separate Order in the concerned file. Special Leave granted in all the other petitions. In all the above appeals the short controversy raised is whether gur-lauta and raskat and rab-galawat and rab-salawat are liable to the levy of market fee under the U.P. Krishi Utpadan Mandi Adhiniyam of 1964 (hereinafter referred to as 'the Act').

A Division Bench of the Allahabad High Court referred the question for being considered by a Full Bench. The Full Bench of the High Court by decision dated 2.4.1990 held that gur-lauta and raskat and rab-galawat and salawat were not an agricultural produce within the meaning of the Act. Subsequently other Benches followed the aforesaid decision of the Full Bench. All the above appeals by grant of Special Leave are directed against the Judgment of the Full Bench dated 2.4.1990 as well as the subsequent decisions following the Full Bench case.

Section 2(a) of the Act defines 'agricultural produce' and reads as under "2(a) 'agricultural produce' means such items of produce of agriculture, horticulture, viticulature, apiculture, sericulture, pisciculture, animal husbandry, or forest as are specified in the Schedule and includes admixture of two or more of such items, and also includes any such item in processed form, and further includes gur, rub, shakkar, khandsari and jaggery".

It may be mentioned that the words gur, rab, shakkar, khandsari and jaggery were added in the above definition of agricultural produce by U.P. Act No.10 of 1970. To decide the controversy raised in these cases the definition of agricultural produce has to be taken into consideration after the words added by the aforesaid U.P. Act No.10 of 1970. Sugarcane is an agricultural produce out of which juice is extracted. The said juice gets thickened by dehydration and when it reaches a particular pigment, it takes the form of rab which is a semi solid form of the sugarcane juice. After the process of boiling this rab is put in a crystaliser where it is allowed to get cooled and crystals are formed when the same is rotated in the crystaliser. The crystalised rab is then put into centrifugal machines in which through the process of infusion of sulphur, the sugarcane juice is cleaned and whitened.

The rab which is not put into the centrifugal machine but is dehydrated and is. allowed to be hardened by the open pan process takes the shape of gur which is normally used for home consumption.

The rab which is not allowed to be hardened is also sold in semi solid form but those persons who desire to make further profits put the rab into centrifugal machines and by the process of infusion of sulphur they obtain khandsari in the dry powder/crystalised form and the waste of rab which is

obtained in the liquid form is known as molasses. The residue which is known as molasses is further utilised by many people by boiling in the open pans and the same is again re-processed by cleaning and dehydrating and later by sulphitation is taken in powder form. This first process out of molasses of rab in the semi solid form is also sold in the market because this inferior quality contains less content of sucrose and is called rab-galawat. Rab-salawat is also prepared by the same process out of the molasses and is further inferior quality of rab. It has been contended on behalf of the appellants that rab-galawat and rab-salawat are thus nothing but different forms of rab although a little and/or more inferior in quality. It has been contended that the main ingredient being sugarcane out of which juice is extracted and when gur, rab, khandsari and shakkar have been added in the definition of agricultural produce, the rab-galawat or rab-salawat being the inferior forms of rab are necessarily an agricultural produce within the above definition of agricultural produce. It has also been submitted that so far as gur-lauta or other forms of gur like kala-gur, gur-budha etc., are also prepared from the molasses by re-boiling the molasses in the open pans which is allowed to thicken after dehydration in the boiling pans. Thus it has been submitted that gur-lauta or gur-raskat is nothing else except inferior form of gur. On the other hand it has been contended on behalf of the respon-

dents that the Full Bench of the High Court was right in taking the view that molasses are a different product which looses its original character and being a residual article after solidification of the natural article i.e., sugarcane juice, it cannot be said to be an agricultural produce. It has been contended that molasses itself being not an agricultural produce, gur-lauta and raskat prepared from molasses cannot be held to be an agricultural produce. We have considered the arguments advanced on behalf. of the parties and have perused the record. A perusal of the definition of agricultural produce under Section 2(a) of the Act shows that apart from items of produce of agriculture, horticulture, viticulture, apiculture, sericulture, pisciculture, animal husbandry or forest as are specified in the Schedule the definition further 'includes admixture of two or more such items and thereafter it further 'includes taking any such item in processed form and again for the third time the words used are 'and further includes gur, rab, shakkar, khandsari and jaggery'. It is a well settled rule of interpretation that where the legislature uses the words 'means' and 'includes' such definition is to be given a wider meaning and is not exhaustive or restricted to the items contained or included in such definition. Thus the meaning of' agricultural produce' in the above definition is not restricted to any products of agriculture as specified in the Schedule but also includes such items which come into being in processed form and further includes such items which are called as gur, rab, shakkar, khandsari and jaggery If we look the matter from another angle, U.P. Krishi Utpadan Adhiniyam is'a beneficial legislation both for the agriculturists as well as the traders. It provides for collecting market fee by the mandi samities from the agricultural produce brought for sale and purchase in the market areas. We find no ground or justification to take the view that the legislature though intended to levy market fee by mandi samities on gur and rab but may have had no intention of charging of market fee on inferior qualities of gur called as gur-lauta or raskat and similarly of inferior qualities of rab called rab-galawat and rab-salawat. We do not find any good reason to take the view, as contended on behalf of the respondents, that the gur-lauta or raskat being prepared from the molasses as such these items should not be considered as agricultural produce. It cannot be denied that molasses is a syrup drained from the sugarcane juice in the process of manufacturing sugar. Similarly rab is also a product prepared in the same process and rab-salawat and galawat are

inferior forms of rab. It has been contended on behalf of the respondents that gur- lauta or raskat is not fit for human consumption and the same is utilised for animal consumption as such cannot fall within the definition of gur. Even if for arguments sake it may be admitted that the aforementioned inferior quality of gur is not fit for human consumption and is utilised for animal consumption, we do not see any reason to hold that on account of such use or consumption the item cannot be held as an agricultural produce within the meaning of its definition in Section 2(a) of the Act. Thus in our view an kinds of rab and gur made from sugarcane or from molasses shall fall within the definition of rab and gur as contained in Section 2 (a) of the Act.

In Rathi Khandsari Udyog etc. v. State of U.P. & Ors etc., [1985] 2 S.C.R. 966 this court while considering the definition of khandsari under Section 2 (a) of the Act held as under :-

> "The Legislature has in terms encompassed 'Khandsari' within the definition of Section 2(a) of the Act. And the term 'Khandsari' is sufficiently wide to cover all varieties of khandsari including the article produced by the factories like those of the petitioners. Besides the basic premise assumed by the petitioners that the object of the Act is merely to protect the producers from exploitation is fallacious. of course one of the main objects of the Act is to protect the producers from being cheated by unscrupulous traders in the matter of price, weight, payment, unlawful market charges etc. and to render them immune from exploitation as indicated by the 'prefatory note' and by the provisions contained in Section 16(i), (ii),
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> (iii), (iv), (viii) etc. While this is one of the objects of the Act, it is not the sole or only object of the Act. The Act has many more objects and a much wider perspective such as development of new market areas, efficient collection of data, and processing of arrivals in Mandis with a view to enable the World Bank to give substantial economic assistance to establish various markets in Uttar Pradesh as also protection of consumers and even traders from being exploited in the matter of quality, weight and price".

In Kishan Lal and Ors. v. Slate of Rajasthan & Ors., [1990] 2 S.C.R. 142 it was held as under:

> "The definition of the word 'agricultural produce" in the Act includes all produce whether agricultural, horticultural, animal husbandry or otherwise as specified in the Schedule. The legislative power to add or include and define a word even artificially, apart, the definition which is not exhaustive but inclusive, neither excludes any item produced in mill or factories nor it confines its width to produce from soil. Nor switch over from indigenous method of producing anything to scientific or mechanical method changes its character. To say, therefore, that sugar being produced in mill or factories could not be deemed to be agricultural produce is both against the statutory language and judicial interpretation of similar provisions of the Act in statutes of other States".

In Bharat Trading v. State of U.P. & Ors., Writ Petition (Civil) No. 9982 of 1983 decided on 31st March, 1992 it was held that 'raskat' is nothing more than an inferior quality of gur and the same was held as an agricultural produce within the meaning of Section 2(a) of the Act. Thus we hold that gur lauta or raskat and rab-galawat and rab salawat fall within the definition of 'agricultural produce' as contained in Section 2(a) of the Act and are exigible to market fee under the Act and the view taken by the Full Bench of the High Court is not correct. In the result we allow all these appeals., set aside the impugned judgments of the High Court and as a result of which the writ petitions riled by tile respondents stand dismissed. No order as to costs.

N.V.K.

Appeals allowed.