

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1654 of 2008

M/s. Selvam Broilers (P) Ltd. .. Appellant(s)

Versus

State of Kerala .. Respondent(s)

WITH

CIVIL APPEAL NO. 3979 OF 2007

M.A. Subaida Begun .. Appellant(s)

Versus

State of Kerala .. Respondent(s)

O R D E R

1. Since the issues involved in all the appeals are identical, for the purpose of convenient disposal of these appeals, we would only notice the facts and discuss the issues raised in Civil Appeal No.1654 of 2008 as the lead case.

2. The brief facts of the case are: M/s. Selvam Broilers Pvt. Ltd. is a registered dealer under the provisions of the Kerala General Sales Tax Act, 1961 (for short, "the KGST Act") and the Central Sales Tax Act, 1956 (for short, "the Act"). The registered dealer is engaged in the activity of running a poultry farm. In its poultry farm, it not only engages in hatching of the eggs but also involves in *firstly*, inter-State purchase of one-day chicks from the State of Tamil Nadu, *secondly*, rearing of the chicks in the State of Kerala and thereafter, effecting the sale of chicks and chicken within the State.

3. During the assessment proceedings for the relevant assessment year 1998-1999, the assessing authority was of the view that the one-day chicks brought by the dealer from outside the State and reared and sold within the State are taxable under the KGST Act and accordingly, had completed the assessments for the aforesaid assessment year by order

dated 31.12.2001.

4. The assessee, aggrieved by the aforesaid, had approached the Deputy Commissioner (Appeals) by way of first appeal. The Deputy Commissioner (Appeals) rejected the aforesaid appeal and confirmed the order of assessment by its order dated 19.09.2002.

5. Aggrieved by the aforesaid, the assessee had preferred second appeal before the Sales Tax Appellate Tribunal, Ernakulam (for short, "the Tribunal"). The assessee alongwith the grounds against estimation of additional turnover fixed by the authorities below, had raised fresh grounds seeking benefit of the exemption under the notification SRO No.1727 of 1993 (for short, "the notification") and claimed that the entire turnover from sales of chicks and chicken are exempt from the levy of tax under the KGST Act.

6. The Tribunal had considered the claim of exemption sought for by the assessee and concluded

that the notification only stipulates one condition to be eligible for exemption, that is, the dealer must be a poultry farm or hatchery in the State and since, the assessee satisfies the said condition, it is entitled to the benefit of exemption under the notification. Therefore, the Tribunal has held that the authorities below were not justified in disallowing the exemption claimed by the assessee with respect to the sale of chicks and chickens brought from outside the State and hence, partly allowed the appeal by order dated 30.11.2004.

7. It is this order of the Tribunal which was questioned by the respondent-State in the Revision Petition filed before the High Court.

8. The High Court has considered the object and purpose of the notification, that is, to encourage the poultry farmers and the hatcheries within the State, who rear chicks and chickens in the State and consequently, keeping in its view the aforesaid,

observed that the notification does not contemplate exemption for poultry farmers who effect inter-State purchase of one-day chicks and subsequently, rear and sell chickens within the State and the said farmers are ineligible for exemption under the notification. Therefore, the High Court has allowed the tax revision and set aside the order passed by the Tribunal.

9. We have heard learned counsel for the parties to the *lis*.

10. Shri R. Venkataramani, learned senior counsel appearing for the assessee while assailing the impugned judgment and order submit that since the language of the notification is unambiguous, the High Court ought not to have delved into the object and reasons which prompted the respondent-State Government to issue the notification. He would further submit that the notification does not prescribe any conditions for the applicability of exemption contained therein for the poultry farms and hatcheries

in the State and therefore, the exemption therein would apply to the activity carried on by the assessee who stands squarely covered under column (2) of Entry 24, Schedule III of the Notification.

11. *Per contra*, Shri V. Shyamohan, learned counsel appearing for the respondent-State would support the judgment and order passed by the High Court and submit that learned Judges of the High Court were justified in allowing the Revision Petition keeping in view the language of the notification in backdrop of the previous notifications issued.

12. The question that requires our consideration and decision is whether one-day chicks that the dealer purchases from the State of Tamil Nadu and rears in the State of Kerala are exempted from payment of tax in view of Notification No.1723 of 1993 which has come into effect from 04.11.1993.

13. In these appeals, we are concerned with the assessment years 1993-94, 1997-1998 and 1998-1999. It

is neither in dispute nor has it been disputed that the notification SRO No.1727 of 1993 would be applicable for the aforesaid assessment years.

14. To appreciate the controversy, it would be beneficial to extract the notification issued by the State Government in exercise of its powers under Section 10 of the KGST Act. The notification reads as under:

"....the Government of Kerala, having considered it in the public interest to do so, hereby make an exemption-

(1) in respect of the tax payable under the said Act:

2. by dealers mentioned in column (2) of Schedule III on the turnover of sale or purchase, as the case may be, of goods mentioned in column (3) against them, subject to the conditions and restrictions, if any, specified in column (4) thereof against each;

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Schedule III

Dealers whose turnover of sale or purchase is exempt under sub-clause (2) of clause 1.

Sl. No.	Name of Dealer	Turnover which is exempted	conditions and Restrictions
(1)	(2)	(3)	(4)
24.	Poultry farmers including hatcheries in the State	Turnover of sale of chicks and chickens."	Nil

15. The language of the notification is unambiguous and clear. A bare perusal of the notification would indicate that it applies not only to the poultry farmers but also applies to the hatcheries within the State. It however exempts the turnover of the sale of chicks and chickens within the State carried out by such poultry farms and hatcheries. The grant of such exemption is unqualified under the notification, as reflected under column (4).

16. The respondent-State has urged before us that the object of the notification ought to be considered in placing correct interpretation on the entries employed thereunder and thus, must receive a liberal construction. It is well settled that a

provision providing for an exemption has to be construed strictly. In cases wherein the language of the exemption contained in the notification is simple, clear and unambiguous, the exemption notification must be given its natural meaning and the object and purpose of the notification need not be looked into. (*CCE v. Favourite Industries*, (2012) 7 SCC 153). In *Novopan India Ltd. v. CCE and Customs*, 1994 Supp (3) SCC 606, dealing with the same issue in relation to an exemption notification, a three-Judge Bench of this Court, stated the principle as follows:

"16. We are, however, of the opinion that, on principle, the decision of this Court in *Mangalore Chemicals and Fertilisers Ltd. v. CCT*, 1992 Supp (1) SCC 21 and in *Union of India v. Wood Papers Ltd.*, (1990) 4 SCC 256 referred to therein—represents the correct view of law. The principle that in case of ambiguity, a taxing statute should be construed in favour of the assessee—assuming that the said principle is good and sound—does not apply to the construction of an exception or an exempting provision; they have to be construed strictly. A person invoking an exception or an exemption provision to relieve him of the tax liability must establish clearly that he is covered by the

said provision. In case of doubt or ambiguity, benefit of it must go to the State. This is for the reason explained in *Mangalore Chemicals*<sup>8</sup> and other decisions viz. each such exception/exemption increases the tax burden on other members of the community correspondingly. Once, of course, the provision is found applicable to him, full effect must be given to it. As observed by a Constitution Bench of this Court in *Hansraj Gordhandas v. CCE and Customs*, AIR 1970 SC 755 that such a notification has to be interpreted in the light of the words employed by it and not on any other basis. *This was so held in the context of the principle that in a taxing statute, there is no room for any intendment, that regard must be had to the clear meaning of the words and that the matter should be governed wholly by the language of the notification i.e. by the plain terms of the exemption."*

(emphasis supplied)

17. As we have already noticed, Entry 24 of the notification contemplates two categories of dealers, (i) a poultry farmer and (ii) hatcheries. What is exempted under the notification is the turnover from sales of chicks and chickens by both types of dealers. It is not specified that if a poultry farmer imports or effects inter-State purchase of chicks and

chickens, it would be ousted from the purview of the notification and thus, not be entitled to the benefits of the notification. In our considered opinion, language of the notification is clear and precise. The plain reading of the entry in the notification herein neither reflects any ambiguity nor creates confusion as to contents of the notification and therefore, we need not look into the object and purpose of the notification which prompted the State authorities to frame and issue the aforesaid notification.

18. In view of the above, we are of the considered view that the learned Judges of the High Court were not justified in allowing the Revision Petition and upsetting the order passed by the Tribunal.

19. In the result, we set aside the judgment(s) and order(s) passed by the High Court and restore the order(s) passed by the Tribunal.

20. The Civil Appeals are disposed of accordingly.

Ordered accordingly.

.....CJI.  
[ H.L. DATTU ]

.....J.  
[ ARUN MISHRA ]

NEW DELHI,  
MARCH 24, 2015.

ITEM NO.103

COURT NO.1

SECTION IIIA

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 3979/2007

M.A. SUBAIDA BEGUM

Appellant(s)

VERSUS

STATE OF KERALA

Respondent(s)

WITH

C.A. No. 1654/2008

(With Interim Relief and Office Report)

Date : 24/03/2015 These appeals were called on  
for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE ARUN MISHRA

For Appellant(s) Mr. R. Venkatramani, Sr. Adv.  
Mr. Atul Shankar Vinod, Adv.  
Ms. Neelam Singh, Adv.  
Mr. Yashraj Bundala, Adv.  
Ms. Mukti Chowdhary, Adv.

Dr. S. Gopakumaran Nair, Sr. Adv.  
Mr. T.G. Narayanan Nair, Adv.  
Mr. K.N. Madhusoodhanan, Av.

For Respondent(s) Mr. V. Shyamohan, Adv.  
Mr. Abhishek Kumar, Adv.  
Ms. Liz Mathew, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The civil appeals are disposed of in terms of the  
signed order.

[ Charanjeet Kaur ]  
Court Master

[ Vinod Kulvi ]  
Asstt. Registrar

[ Signed order is placed on the file ]