

STATE OF TAMIL NADU
v.
MAHI TRADERS & ORS. ETC. ETC.

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FEBRUARY 3, 1989

[SABYASACHI MUKHARJI AND S. RANGANATHAN, JJ.]

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Central Sales Tax Act, 1956: Sections 14(1)(iii) & 15—'Leather splits', 'Coloured leather'—Whether hides and skins—Eligibility for special treatment under the Act.

Statutory construction—Contemporaneous exposition—Opinion rendered on meaning of statutory expressions by the Department concerned—The terms of the statute can be construed by reference to such exposition—In the absence of anything in the statute to indicate the contrary.

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Words & phrases: 'Leather splits'—Meaning of.

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The respondents are dealers in hides and skins. They deal among other things in splits and coloured leather. The splits are the cut pieces, small and irregular, obtained in the process of cutting raw or tanned hides and skins either with a view to reduce their thickness or to give them a regular shape. Coloured leather is obtained when the tanned hides and skins are dyed with various colours. The claim of the respondents is that these two items fall in the list of "goods of special importance in *inter-State* trade and commerce" set out in s. 14 of the Central Sales Tax Act and, therefore, entitled to the concessions available under s. 15 of the Act, namely the benefits of single point taxation and of a smaller rate of tax. Such claims were allowed by the assessing authority in respect of coloured leather and in respect of splits he disallowed the claims. The Appellate Assistant Commissioner upheld the order of the assessing authority. The Board of Revenue negatived the contention that leather splits continued to be dressed skins under declared goods of *inter-State* importance and held that these splits are to be treated as 'scraps' or to be taxed at the multiple rates. As regards coloured leather the Board held that these are commercially different products and that the exemption granted was not correct. The tribunal, in certain cases, had held that the assessee was entitled to the concessions claimed in respect of both items.

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The respondents moved the High Court by way of Writ Petitions

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A and tax revision cases and the High Court upheld the claim of the respondents, holding that 'splits' and 'coloured leather' continue to be hides and skins eligible for special treatment under the Central Sales Tax Act.

B The present appeals by special leave are against those judgments of the High Court.

C The contentions of the appellant-State were that the leather splits or cuttings are "scrap" and do not qualify any longer to be described merely as hides and skins and that coloured leather is a totally new and sophisticated product known as leather and can no longer be described merely as hides and skins and as such cannot qualify for exemption.

D On behalf of the respondents, a reference was made to certain circulars of the authorities which contain a contemporaneous exposition of the meaning of the entry in question and contended that, to say that one item being called scraps and the other as leather would not be sufficient to take them out of the description "hides and skins, in a raw or dressed state" and cuttings of hides and skins would not cease to be hides and skins merely because they are small pieces and can be loosely described as "scraps". As for coloured leather, it was contended that the exact scope of the expression used in entry (iii) of s. 14(1) which referred to 'hides and skins whether in a raw or dressed state' would
E have to be looked into.

Dismissing the appeals,

F HELD: 1.1. The High Court was right in holding that 'splits' and 'coloured leather' continue to be hides and skins eligible for special treatment under the Central Sales Tax Act. [456E]

G 1.2 A contemporaneous exposition by the administrative authorities is a very useful and relevant guide to the interpretation of the expressions used in a statute. Considering that the clarification was sought for from the Ministry of Commerce at the earliest point of time when a doubt arose as to the scope of the expression used by the statute and given after considering the technicalities of the processes employed in the manufacture of finished leather by the department fully conversant with this branch of trade and in the context of the provisions of this very statute, the terms of the statute can well be construed by reference to such exposition, in the absence of anything in the statute to
H indicate the contrary. Indeed, such interpretation should be shown to

be clearly wrong before it is overturned. The view of the Ministry was that the expression 'hides and skins in the raw or dressed State' refers at one end to the raw material obtained from the slaughtered or dead animals and at the other end to the tanned and finished material; the expression, therefore, seems to include the other intermediate stages as well. 'Dressing' according to the authoritative interpretations, would mean the conversion of tanned hides and skins by further suitable processing into leathers of different types which are ready for use. [452F-H; 452B-D]

Desh Bandhu Gupta and Ors. v. Delhi Stock Exchange, [1979] 4 SCC 565; *Verghese v. I.T.O.*, [1981] 131 ITR 597, relied on.

Mahi Traders v. State of Tamil Nadu, [1980] 45 STC 327, approved.

2. Definitions in this regard show that hides and skins acquire the name of 'leather' even if the hair or wool has not been removed therefrom, as soon as they receive some treatment which prevents them from putrefaction after treatment with water. 'Dressing' is a stage much later than tanning. Indeed, from the definitions it is clear that it is practically the same as giving finishing touches to the leather and making it suitable for the manufacture of particular types of goods. The findings of the Tribunal in this regard in an earlier case, which had not been appealed against by the Department, that under the Central Sales Tax Act, the appellant is in a much better position, because all the hides and skins are brought together in one entry, and whether raw or dressed, the product falls under the same entry, seems to be the correct view of the scope of the entry in question. [454B-D; 455E]

Glossary of terms relating to hides, skins and leather published by ISI in 1960: Dictionary of Leather Terminology published by the Tanners' Council of America. Encyclopaedia Britannica Vol. 7 and, 'Wealth of India'. Part V, a publication of the Council of Scientific and Industrial Research, 1966, relied on.

3. Hides and skins are termed 'leather' even as soon as the process of tanning is over and the danger of their putrefaction is put an end to. The entry in the Central Sales Tax Act, however, includes within its scope hides and skins until they are 'dressed'. This represents the stage when they undergo the process of finishing and assume a form in which they can be readily utilised for manufacture of various commercial articles. In this view, it is hardly material that coloured leather may be a form of leather or may even be said to represent a different commer-

A **cial commodity. The statutory entry is comprehensive enough to include the products emerging from hides and skins until the process of dressing or finishing is done. [456C-E]**

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 2665-72 (NT) of 1981 etc. etc.

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From the Judgment and Order dated 9.1.1980 of the Madras High Court in Tax Case Nos. 894, 895 of 1977, 591, 942, 968, 975 of 1979 and W.P. Nos. 4951 and 4952 of 1978.

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S. Padmanabhan, R. Mohan and R.A. Perumal for the Appellant.

T.A. Ramachandran, A.K. Sen, Mrs. J. Ramachandran, Inbarajani, P.N. Ramalingam, A.T.M. Sampath and A.V.V. Nair for the Respondents.

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The Judgment of the Court was delivered by

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RANGANATHAN, J. All these civil appeals and special leave petitions raise a common question as to the interpretation of an expression used in the Central Sales Tax Act. Some of these matters arise out of judgments of the High Court in Tax Revision cases and some out of judgments in writ petitions but the point involved is the same. In view of the pendency of the appeals, we grant leave in the special leave petitions after condoning the delay in filing some of them and proceed to dispose of all the appeals by a common order.

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The respondents are all dealers in hides and skins carrying on business in the State of Tamil Nadu. As is well known, raw hides and skins undergo various processes such as cutting, tanning, dyeing, dressing and finishing before they get converted into finished leather and assume a condition fit for the manufacture of various kinds of leather articles. The dispute in these appeals is in regard to two items of goods that are sold by these assesseees viz. leather splits and coloured leather.

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The splits are the cut pieces, often small and irregular, obtained in the process of cutting raw of tanned hides and skins either with a view to reduce their thickness or with a view to give them a regular shape. Coloured leather is obtained when the tanned hides and skins are dyed with various colours. The assessee, *inter alia*, deal in these two items, their manner of such dealing varying from case to case. Some of them

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obtain the leather splits in the process of cutting and sell them while

some purchase the cuttings and sell them as such. So also, the coloured leather is obtained by some of the assesseees in the process of finishing and they sell them while others purchase the coloured leather and sell them as such. The assesseees' claim is that these two items fall in the list of "goods of special importance in *inter-State* trade and commerce" set out in S. 14 of the Central Sales Tax Act, 1956 (the 'CST Act') and that, therefore, the assessee is entitled, in respect of their sales, to the concessions available under s. 15 of the CST Act viz. the benefits of single point taxation and of a smaller rate of tax. The sole question in these appeals is whether the High Court was right in upholding this claim. The principal judgment of the High Court on this point has been reported as *Mahi Traders v. State of Tamil Nadu*, [1980] 45 S.T.C. 327.

The relevant entry in s. 14 of the CST Act reads:

"14(1)(iii) hides and skins, whether in a raw or dressed state."

The short case of the department is: (a) that leather splits or cuttings are "scrap" and do not qualify any longer to be described as hides and skins; and (b) that coloured leather is a totally new and sophisticated product known as leather and can no longer be described merely as hides and skins. The department's case is best explained in a passage from the order of the Board of Revenue which accepted the department's contention. It observed:

"The contentions have been examined with reference to the connected records. The splits are only pieces of leather obtained in the process of getting leather of uniform thickness from dressed skins. Such splits cannot be treated as dressed hides and declared goods. The expression "raw or dressed skin" in section 14 of the Central Sales Tax Act has a distinct connotation and it cannot be extended to leather bits obtained in a process. These splits are of much lesser value and cannot be equated to dressed skins. In 27 S.T.C. page 385 the Orissa High Court has held that if steel plates are cut to sizes, they cease to be the original product. What should be considered is whether those leather splits are commercially understood as dressed hides and skins. If they are understood only as just skins as claimed, there is no need to call them as splits in commercial parlance. The Courts have repeatedly ruled that the entries in the Act

A should be treated only as understood by the Trade. These splits were produced before the Board at the time of hearing. They were found to be thin pieces which can be utilised only for miscellaneous purposes. The contention that these leather splits continue to be dressed skins and are declared goods of interstate importance, is untenable. The assessing officer was therefore right in treating these splits as scraps and taxing them at the multipoint rate, and in the absence of 'C' forms, at 10%.

C As regards the coloured skins, once the dressed skins bought are split and the upper layer of uniform size is coloured or dyed, such coloured skins become different products. They are finished leather sold as coloured skins and not as dressed skins. They are commercially different, and are treated and dealt with in trade circles as different products. The process of dyeing or colouring changes the commercial nature of the dressed skins. There are different patterns of dyeing and colouring. The complete piece may be dyed or coloured uniformly with a single colour or with a pattern of colours, depending upon the requirements of the prospective consumers in the market. As the dressed skins are subjected to process, first by splitting and secondly by colouring they become different products. Pieces of coloured and dyed leather were produced before the Board at the time of hearing. Some pieces were coloured with a single colour on one side and dyed on the reverse. They can be used straightaway for manufacturing leather goods. They were also in patterns. The contention that no change is involved has therefore no force. Both the Appellate Assistant Commissioner and the Assessing Officer were not therefore correct in allowing exemption."

G On the other hand, on behalf of the assesseees, reference is made to certain circulars of the authorities which contain a contemporaneous exposition of the meaning of the entry in question, reliance is placed on the decision of the Sales Tax Appellate Tribunal to the contrary and it is emphasised that, to say that the one item is called scraps and the other is called leather is not sufficient to take them out of the description "hides and skins, in a raw or dressed state". It is submitted that cuttings of hides and skins do not cease to be hides and skins merely because they are small pieces and can be loosely described as "scraps". So far as coloured leather is concerned, according

to the assessee, the question is not whether the coloured skin is described as leather or whether it is a new product different from hides and skins, as understood generally, but what exactly is the scope of the expression used in entry (iii) of s. 14(1). The submission is that hides and skins are generally described as leather even as soon as tanning is done but the entry in the statute goes much beyond this stage. It takes in all categories of hides and skins right from their raw condition, through various stages of their tanning and other processing, right upto the stage when they receive the final finishing touches.

We have heard learned counsel on both sides at length and come to the conclusion that the assessee is entitled to the benefit of Ss. 14 and 15 of the CST Act in respect of the two items in question. As far as the first item is concerned, it is common ground that leather splits are nothing but cut pieces of hides and skins. We fail to see how they cease to be hides and skins. It is no doubt true that they are cheaper and have a separate name but the name only indicates that they are cut pieces. It is not because they have ceased to be hides and skins and constitute a different commercial commodity that they are called 'scraps'. Some of the dealers purchase and sell such splits and such turnover is considerable. There is no material to suggest that they are useless or worthless articles. A loose description of them as 'scrap' cannot deprive them of the benefit of s. 14 of the Act.

Turning to coloured leather, we may, at the outset, refer to a very important circumstance referred to by the respondents. When the CST Act came into force on 1.4.1957, a question was raised regarding the meaning of the expression 'hides and skins in dressed state' used in s. 14. The matter was referred to the leather development wing of the Ministry of Commerce and Industry which gave the following opinion:

"Hides and Skins are obtained from either slaughtered or dead animals. The raw hides and skins thus obtained are known to be in the Green State. These are easily putrescible; if proper precautions are not taken they would easily rot and decay. Since tanneries are not always located very near the source of raw hides and skins, the question of preserving them for a temporary period till they reach a tanning centre assumes importance. Raw hides and skins are 'cured' by either wet salting, dry salting or drying. In the 'cured state' the raw materials can be preserved for a temporary period. In the third state of temporary preserva-

A tion, the hides and skins are 'picked'. During the next stage they are tanned in which state they can be preserved almost indefinitely. These tanned hides and skins are processed further to yield Dressed Hides and Skins which are ready for use. 'Dressed' or finished material could also be preserved almost indefinitely.

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C From the above, it will be seen that the expression 'Hides and Skins in the raw or dressed State' refers at one end to the raw material obtained from the slaughtered or dead animals and at the other end to the tanned and finished material; the expression, therefore, seems to include the other intermediate stages indicated in the previous paragraphs. Dressing, according to the authoritative interpretations, would mean the conversion of tanned hides and skins by further suitable processing into leathers of different types which are ready for use" (vide SBT/18(495/14) of November 11, 1957).

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E It would seem though this is not quite clear from the record, that this opinion held the field for quite some time until the assessments presently in question were made. Even here, as pointed out by the High Court, the departmental view was not quite consistent. The Deputy Commercial Tax Officer, in some of the cases, was willing to concede that coloured leather, notwithstanding the colouring, continued to be dressed hides and skins but thought that leather splits should be brought to multipoint tax. The Assistant Commissioner, on the contrary, took the view that splits would continue to be hides and skins. It was the Board of Revenue that decided that both items would fall outside the purview of item (iii) in section 14(1).

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G It has been pointed out by this court in *Desh Bandhu Gupta and Ors. v. Delhi Stock Exchange*, [1979] 4 SCC 565, and *Varghese v. ITO*, [1981] 131 ITR 597 that a contemporaneous exposition by the administrative authorities is a very useful and relevant guide to the interpretation of the expressions used in a statute. Considering that the above clarification was sought for at the earliest point of time when a doubt arose as to the scope of the expression used by the statute and given after considering the technicalities of the processes employed in the manufacture of finished leather by the department fully conversant with this branch of trade and in the context of the provisions of this very statute, the terms of the statute can well be construed by H reference to such exposition, in the absence of anything in the statute

to indicate the contrary. Indeed, "such interpretation should be shown to be clearly wrong before it is overturned." A

Can it then be said that the view expressed above is clearly wrong? We think not; on the contrary, it is seen to be quite correct. The statutory expression refers to "hides and skins in a dressed state". The guidelines issued for identification of 'finished' leather for exports by the Indian Standards Institution (ISI) refer to as many as 19 operations or processes undergone during manufacture of 'finished leather' but 'dressing' is not one of them. A glossary of terms relating to hides, skins and leather published by the I.S.I. in 1960 contains the following definitions: B

CRUSTS: (Crust Leather)—Tanned hides and skins without any finish. C

CURRYING: A series of dressing and finishing processes applied to leather after tanning in the course of which appropriate amounts of oils and greases are incorporated in the leather to give it increased tensile strength, flexibility and resisting properties. D

DRESSED RIDES: Tanned hides, curried or otherwise finished, for various purposes, such as belting, harness and saddlery, travel goods and for upholstery. E

DRESSING LEATHER: Vegetable tanned hides which may be dressed to suit the purpose for which they are to be used, such as for harness, saddlery and other mechanical purposes. F

LEATHER: The skin or hide of animals prepared by tanning, which still retains its original fibrous structure more or less intact, but from which hair or wool may or may not have been removed and which has been treated so as to be imputrescible even after treatment with water. G

The earlier glossary of such terms published by the British Standards Institution defines 'dressing' as a "general term for the series of processes employed to convert certain rough tanned hides and skins and/or crust leather into leather ready for use." Also, "Leather" is defined as "a general term for hide or skin which still retains its original fibrous structure more or less intact, and which has H

A been treated so as to be imputrescible even after treatment with water." The hair or wool may or may not have been removed. Certain skins, similarly treated or dressed, and without the hair removed, are termed 'fur'. The Dictionary of Leather Terminology published by the Tanners' Council of America, describes leather as "the hide and skin of any animal or any portion of such skin, when tanned, tawed or
B otherwise dressed for use."

The above definitions show that hides and skins acquire the name of 'leather', even if the hair or wool has not been removed therefrom, as soon as they receive some treatment which prevents them from putrefaction after treatment with water. Dressing is a stage much later than tanning. Indeed, from the definitions quoted above, it
C will be seen that it is practically the same as giving finishing touches to the leather and making it suitable for the manufacture of particular types of goods.

Sri Sen invited our attention, apart from the contemporaneous
D exposition by the Department, to the findings of the Tribunal in this regard in an earlier case which had not been appealed against by the Department. The Tribunal had said:

"We have carefully considered the records as well as the arguments. We have seen the specimens of the articles sold. Bits of the same are also on record. We have carefully
E scrutinised the same. We are unable to say that what the appellants had sold is not leather or in other words dressed hides and skins. The fact that the appellant has done some more finishing would not take away the resultant product from the classification. We do find that the clarification issued by the Board of Revenue, Madras and the Govt. of
F India supports the appellants case. The expert opinion which only says that the resultant product has undergone some chemical changes observed as under:

It is, surely a different product, because it is a
G finished leather. It however, retains the leathery properties of the dressed leather.

Hence the expert opinion also fully supports the appellants case inasmuch as it concedes that the resultant product is 'finished leather'. It is because the issue in appellant's case is not whether the appellant was selling a different product

from the one it purchased, but whether the appellant was selling tanned leather. In this case, we do not find any factual basis even to cast any doubt upon the appellant's claim. It is a pity that the assessing authority should have followed the audit objections without the application of his own mind. Leather from the stage of raw skins to the stage of dressed hides and skins may undergo various stages of changes. Under the classification for the purposes of section 14 of the Central Sales Tax Act, the various stages are irrelevant. For the purposes of Tamil Nadu General Sales Tax Act, 1959, only two stages that are relevant are the skins at the raw stage and the skins in the form of dressed hides and skins (or tanned hides and skins). The appellant purchases semifinished leather and undertakes further process of finishing with a view to colour the hides and skins for certain uses of skins. He says that he purchased the same tanned hides and skins and sold the tanned hides and skins. According to him the products purchased and sold are not different even under the classification by way of the dichotomy between raw and dressed hides and skins under the Tamil Nadu General Sales Tax Act. Under the Central Sales Tax Act, the appellant is in a much better position, because all the hides and skins are brought together in one entry. Whether raw or dressed, the product falls under the same entry." A
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We are of opinion that this represents the correct view of the scope of the entry in question.

The same conclusion is further borne but by the literature referred to before us by Sri Ramachandran. Vol. 7 of the Encyclopaedia Britannica, under the word "dress", explains that the verb has various applications which can be deduced from its original meaning and that "it is thus used not only of the putting on of the clothing but of the *preparing and finishing of leather*" Vol. 17, under the head "leather" details the various processes applied in the treatment of hides and skins at all stages, pre-tanning, tanning and post-tanning. Dyeing or colouring is a process which follows tanning but precedes "finishing" (i.e. dressing) in order to make it suitable for the purpose for which it is required in commercial usage. Part V of the "Wealth of India", a publication of the Council of Scientific and Industrial Research (1966), dealing with leather under "Industrial Products" explains that "hides and skins are liable to putrefaction and loss unless F
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A suitably treated and converted into leather.” Structurally, hides and skins have a thick middle layer called corium, which is converted to leather by tanning. The operations involved in leather manufacture however fall into three groups. Pre-tanning operations include soaking, liming, deliming, bating and pickling, and post tanning operations are splitting and shaving, neutralising, bleaching, dyeing, fat-liquoring and stuffing, setting out, samming, drying, staking and finishing. These operations bring about chemical changes in the leather substance and influence the physical characteristics of the leather, and different varieties of commercial leather are obtained by suitably adjusting the manufacturing operations. These processes need not be gone into in detail but the passages relied upon clearly show that hides and skins are termed ‘leather’ even as soon as the process of tanning is over and the danger of their putrefaction is put an end to. The entry in the CST Act, however, includes within its scope hides and skins until they are ‘dressed’. This, as we have seen, represents the stage when they undergo the process of finishing and assume a form in which they can be readily utilised for manufacture of various commercial articles.

D In this view, it is hardly material that coloured leather may be a form of leather or may even be said to represent a different commercial commodity. The statutory entry is comprehensive enough to include the products emerging from hides and skins until the process of dressing or finishing is done.

E We are, therefore, of the view that the High Court was right in holding that ‘splits’ and ‘coloured leather’ continue to be hides and skins eligible for special treatment under the CST Act. All the appeals, therefore, fail and are dismissed. We however make no order as to costs.

F G.N.

Appeals dismissed.