

STONECRAFT ENTERPRISES  
v  
COMMISSIONER OF INCOME TAX

MARCH 18, 1999

[S.P. BHARUCHA AND R.C. LAHOTI, JJ.]

*Income Tax Act, 1961 :*

*Section 80HHC (2)(b)—Export of 'granite'—Deduction on the profits earned from export of goods—Exclusion of goods which were "mineral oil", "minerals" and "ores"—Central Board of Direct Taxes issuing circular stating that value added granite eligible for deduction—No proof of granite exported by assessee subjected to any process—Claim for deduction—Entitlement of—Held, "Granite" is a "mineral under the provision of Section 80HHC (2)(b)—Thus, assessee not entitled to claim benefit of deduction thereunder.*

*Interpretation of statutes :*

*Doctrine—Noscitur sociis—Applicability of.*

*Words and Phrases :*

*"Mineral oil", "Minerals", "Ores"—Meaning and scope of in the context of Section 80HHC (2)(b) of the Income Tax Act, 1961.*

Appellant-assessee, was engaged in exporting 'granite'. Under Section 80HHC of the Income Tax Act, 1961, an assessee engaged in the business of export of any goods or merchandise was entitled to deduction on the profits gained. However, under Sub-section (2)(d) of the said Section, deduction was not available to mineral oil and minerals and ores. Assessee's claim for deduction was rejected by the Tribunal holding that 'granite' was 'mineral' within the meaning of the term under Section 80HHC (2)(b) of the Act. Aggrieved, appellant has filed the present appeal.

The appellant-assessee contended that while granite was a mineral in general sense, it was not a mineral for purposes of Section 80HHC of the Act and therefore, the deductions provided therein were available to it; the Circular issued by the Central Board of Direct Taxes, states that while granite alone can be considered as a mineral, any process applied to granite

- A would deprive the quality of rough minerals from the dimensional blocks of granite, which was a value added marketable commodity; therefore, profits derived from export of granite dimensional blocks would be eligible for deduction under Section 80HHC of the Act; in view of the doctrine of noscitur a sociis, the word 'minerals' in Section 80HHC should have been read in the context of the word 'ores' with which it was associated and must draw colour therefrom; that is to say, it must read as referring only to such minerals as are extracted from ores and not others, thus excluding granite.
- B

Dismissing the appeals, this Court

- C HELD : 1.1. 'Granite' is a mineral covered under the provisions of sub-section 2(b) of Section 80HHC of Income Tax Act, 1961 and appellant-assessee is not entitled to claim benefit of deduction provided thereunder.

[20-D]

- D 1.2. The doctrine of noscitur a sociis is applicable. The word "minerals" in Sub-section 2(b) of S. 80HHC must be read in the context of "mineral oil" and "ores" with which it is associated. These words taken together are intended to encompass all that may be extracted from the earth. All minerals extracted from the earth, granite included, must, therefore, be held to be covered by the provisions of Sub-section (b) of Section 80HHC, and the exporter is, therefore, disentitled to the benefit of that Section. [21-C-D]
- E

*The State of Mysore v. Swamy Satyanand Saraswati (dead) by his Lrs.* AIR, [1971] SC 1569; *Banarsi Dass Chadha & Bros. v. Lt. Governor Delhi Administration & Ors.*, [1979] 1 SCR 271 and *Pardeep Aggarbatti, Ludhiana v. State of Punjab & Ors.*, [1997] 8 SCC 511, referred to.

- F Halsbury Laws of England, referred to.

2. There is nothing on record to indicate that what the assessee exports is value added granite. The assessee thus, cannot derive any assistance from the circular issued by the Central Board of Direct Taxes. [20-C]

G

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 144-146 of 1994.

- H From the Judgment and Order dated 28.7.93 of the Karnataka High Court in I.T.R.C. Nos. 134-136 of 1992.

A.K. Ganguli and M.T. George for the Appellant. A

V. Gaurishanker and S. Rajappa for the Respondent

The Judgment of the Court was delivered by

**BHARUCHA, J.** We are concerned in these appeals with the Assessment Years 1985-86, 1987-88 and 1988-89. Two questions are before us but it is apparent that the question really to be answered is the first one. The questions read thus : B

“1. Whether, on the facts and in the circumstances of the case, the Tribunal was not correct in holding that ‘granite’ is a ‘mineral’ within the meaning of the term found in Section 80 HHC(b)(ii), Income Tax Act? C

2. Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee is not entitled to the allowance claimed under Section 80 HHC in respect of the granite exported from India?” D

The questions having been answered against it, the assessee is in appeal.

There is no material in the finding of the Tribunal other than the indication that the assessee exports granite. The assessee claimed for the granite which it exported the deduction available under Section 80 HHC of the Income Tax Act, 1961 as inserted by the Finance Act, 1983 with effect from 1st April, 1983. The relevant provision permits, where “an assessee, being an Indian company or a person (other than a company) resident in India, is engaged in the business of export out of India of any goods or merchandise to which this section applies”, the deduction in the computation of its total income of an amount not exceeding 50% of “the profits derived by the assessee from the export of such goods or merchandise”. Sub-section (2)(b) states : “This section does not apply to the following goods or merchandise, namely: (i) mineral oil; and (ii) minerals and ores”. E F G

It is the contention of learned counsel for the assessee that while granite is a mineral in the general sense, it is not a mineral for purposes of Section 80 HHC and that, therefore, the deduction provided for therein is available to the assessee. Our attention has been drawn to the provision as it read before the appropriate year and thereafter. Our attention has also been H

A drawn to a circular issued in the context of the later provision. This circular, issued by the Central Board of Direct Taxes, is dated 1st November, 1995 and records the Board's opinion that while granite alone can be considered as a mineral, any process applied to granite would deprive the quality of rough minerals from the dimensional blocks of granite, which was a value added marketable commodity; therefore, profits derived from export of granite dimensional blocks would be eligible for deduction under Section 80 HHC of the Act. As we have already noted, there is nothing on record to indicate that what the assessee exports is such value added granite so that, even assuming that the said circular is explanatory and can, therefore, relate back to the year in question, the assessee cannot derive any assistance therefrom.

C It is necessary immediately to note that the Mines and Minerals (Regulation and Development) Act covers granite as a minor mineral. This Court in *The State of Mysore v. Swamy Satyanand Saraswati (dead) by his Lrs.*, AIR (1971) SC 1569, has held that granite is a mineral. The Court quoted Halsbury Laws of England, thus :

D “The test of what is a mineral is what, at the date of instrument in question, the word meant in the vernacular of the mining world, the commercial world, and among land owners, and in case of conflict this meaning must prevail over the purely scientific meaning.”

E No material was laid by the assessee before the Tribunal to suggest that in the export world granite was treated as anything but a mineral.

F Reference was made to the judgment of this Court in *Banarsi Dass Chadha & Bros. v. Lt. Governor, Delhi Administration & Ors.*, [1979] 1 SCR 271. It was there held that the word 'mineral' is a word of common parlance, capable of a multiplicity of meanings depending upon the context. For example, the word is occasionally used in a very wide sense to denote any substance that is neither animal or vegetable. Sometimes it is used in a narrow sense to mean no more than precious metals like gold and silver. Again, the word 'minerals' is often used to indicate substances obtained from underneath the surface of the earth by digging or quarrying.

G It is at this stage appropriate to refer to the argument of learned counsel for the assessee based upon the doctrine of *noscitur a sociis*, which, as he submitted, has been explained by this Court in *Pardeep Aggarbatti, Ludhiana v. State of Punjab & Ors.*, [1997] 8 SCC 511 thus :

H “Entries in the Schedules of sales tax and excise statutes list some

articles separately and some articles are grouped together. When they are grouped together, each word in the entry draws colour from the other words therein. This is the principle of *noscitur a sociis*.” A

It was submitted, based upon this doctrine, that the word ‘minerals’ in Section 80 HHC should be read in the context of the word ‘ores’ with which it was associated and must draw colour therefrom; that is to say, it must read as referring only to such minerals as are extracted from ores and not others, thus excluding granite. B

We agree that the said doctrine is applicable. The word ‘minerals’ in sub-section (2)(b) of Section 80 HHC must be read in the context of ‘mineral oil’ and ‘ores’ with which it is associated. It seems to us that these three words taken together are intended to encompass all that may be extracted from the earth. All minerals extracted from the earth, granite included, must, therefore, be held to be covered by the provisions of sub-section (b) of Section 80 HHC, and the exporter thereof is, therefore, disentitled to the benefit of that section. C D

There is no merit in the appeals and they are dismissed with costs.

S.V.K.I.

Appeals dismissed.