MAHESHWARI FISH SEED FARM

v.

T. NADU ELECTRICITY BOARD AND ANR.

APRIL 16, 2004

[R.C. LAHOTI AND ASHOK BHAN, JJ.]

Electricity Laws:

Tamil Nadu Revision of Tariff Rates on Supply of Electrical Energy Act. 1978—Sections 3 & 4—Schedule to the Act detailing tariff rates—State Government issuing notification under S. 4 for amendment of the Schedule—Consequently low tension supply of electricity for agriculture becoming free—The Act, either in the main part or in the Schedule not defining "agriculture"—Appellants-fish farmers claiming benefit under the notification—Held, the benefit was rightly denied to them as fish farming i.e. pisciculture cannot be treated as agriculture—For interpreting the Act and the notification issued thereunder, "agriculture" has to be read in contradistinction with "aquaculture"—Pisciculture is a branch of aquaculture and not agriculture.

Interpretation of Statutes :

Term of common parlance—Meaning to be assigned—Definitions given in other enactments cannot be freely used.

Words not defined in a statute—Have to be understood in their natural, ordinary or popular sense.

Words and Phrases—"agriculture"—.Meaning of in the context of Tamil Nadu Revision of Tariff Rates on Supply of Electrical Energy Act, 1978.

Notification dated 19-11-1990 was published amending the Schedule to the Tamil Nadu Revision of Tariff Rates on Supply of Electrical Energy Act, 1978. Consequently, supply of electricity on low tension for purpose of agriculture became free i.e. became leviable with 'no charge'. Appellants claimed benefit of the notification submitting that they were engaged in fish farming, i.e. pisciculture, which is only a specie of agriculture and were therefore entitled to benefit of the said notification. But benefit was denied

A to the appellants on the ground that pisciculture could not be treated as agriculture. High Court also held that pisciculture is not agriculture. Hence the appeals.

Dismissing the appeals, the Court

B HELD: 1. The Act, either in the main part, or in the Schedule detailing the tariff rates, does not define agriculture. It is a settled rule of interpretation that the words not defined in a statute are to be understood in their natural, ordinary or popular sense. [290-F, G]

Wilma E. Addison v. *Holly Hill Fruit Products,* 322 US 607, referred C to.

Principles of Statutory Interpretation by Justice G.P. Singh, Ninth Edition, 2004, p.95, *The new Encyclopaedia Britannica, Vol.1,* p;156; *Oxford Illustrated Encyclopedia of Invention and Technology ; The Oxford English Dictionary,* Vol. VII. p. 904 and *Mcgraw-Hill Encyclopedia of Science and* D *Technology,* 6th Edition, Vol.7, referred to.

2. Agriculture, need not be kept confined in its meaning to the production of grain and food products for consumption of human beings alone, it can be extended as comprising within its meaning all the products E of the land involving human labour but then it is the producing Capacity of the land which must necessarily be found as involved in any activity to amount to agriculture. [293-D]

Commissioner of income-tax West Bengal, Calcutta v. *Benoy Kumar Sahas Roy,* AIR (1957) SC 768, followed.

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3. The relevant entry in the Act, as its historical background show, was intended to provide electricity at concessional rates or free of any charge to the farmers by dividing them into classes such as small farmers and other farmers. A farmer would be an agriculturist in the traditional sense and narrow meaning of the term. A person engaged in aquaculture G or fish farming would not be called a farmer. Neither the legislature while enacting the schedule to the Act as it originally stood nor the State Government issuing the notification amending the schedule can be attributed with the intention that they had intended to make available electricity at concessional rate or without charge to aquaculturist whose activity is purely commercial. It cannot be said that in the circle of H

agriculturists fish farming is understood as agriculture. [294-A-C] A

4.1. For the purpose of interpreting the Act and the notification issued thereunder, the term agriculture has to be read in contradistinction with the term "aquaculture'. Pisciculture is a branch of aquaculture. Pisciculture is not agriculture. [294-D]

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4.2. It is true that some of the dictionaries include rearing live stock within the meaning of agriculture. Livestock means domestic animals especially horses, cattle, sheep and pigs. Historically these animals are associated with agriculture as they either help in carrying out agricultural operation or they are domestically maintained in agricultural fields because they can feed on products or byproducts of agriculture in its narrow sense. Fishes are not domestic animals and are not included within the meaning of the term 'livestock'. [294-E] C

Chambers Twentieth Century Dictionary, **p. 737, referred to.**

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5. The common pariance meaning of the term 'agriculture' in the context in which it has been used and is arising for determination cannot be determined by reference to definition given in other statutes. This is for more reasons than one. Firstly none of the statutes referred to by the appellant can be called statutes in *pari materia*. Secondly, it is common knowledge that the definition coined by the Legislature for the purpose of a particular enactment is often an extended or artificial meaning so assigned as to fulfil the object of that enactment. Such definitions given in other enactments cannot be freely used for finding out meaning to be assigned to a term of common parlance used in an altogether different setting. [294-H; 295-A, B] E

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CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 6465-6467 of 1998.

From the Judgment and Order dated 25.8.98 of the Madras High Court in S.A.Nos. 95, 96 and 159 of 1998

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T.L.V. Iyer, V. Prabhakar, R.S. Krishna Kumar and Mrs. Revathy Raghavan for the Appellants.

A.T.M. Sampath, R. Ayyam Perumal, Ms. Arti Radha Krishnan, S. Vallinayagam, Ms. T.S. Shanthi and Subramonium Prasad for the Respondents. H

A The Judgment of the Court was delivered by

R.C. LAHOTI, J. The appellants are all owners of their respective lands, having fish farms thereon, and the respondent is Tamil Nadu Electricity Board. The appellants are enjoying supply of electricity from the respondent-Board.

B

The Tamil Nadu Revision of Tariff Rates on Supply of Electrical Energy Act, 1978 (Tamil Nadu Act No.1 of 1979) has been enacted to provide for the revision of tariff rates leviable on electrical energy supplied in the State by the Tamil Nadu Electricity Board. Section 3 provides that the tariff rates payable to the Tamil Nadu Electricity Board by any consumer on the electrical C energy supplied by the Board shall be as specified in the Schedule to the Act. Under Section 4 the State Government is empowered to amend the provision of the Schedule by notification.

The relevant part of the schedule, as published in Tamil Nadu D Government Gazette Extraordinary dated March 12, 1990 and with which we are concerned reads as under:-

"Low Tension tariff V :

Agriculture -

E	(a) Small famers.	
	(b) Tubewells sunk by Tamil Nadu State Tubewell Corporation catering to small farmers.	No charge
	(c) Other farmers.-	
F	(i) Contracted load upto and inclusive of 5 H.P.	Lumpsum of Rs. 50 per horse power per annum
	(ii) Contracted load above 5 HP	Lumpsum of Rs.75 per horse power per annum

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Explanation (i) —'Small Farmer' means a person whose total holding whether as owner, tenant or morgagee with possession, or partly in one capacity and partly in another, does not exceed two and a half acres of wet lands or five acres of dry lands. In computing the extent of land held by a person who holds wet and dry lands, two acres of H dry lands shall be taken to be equivalent to one acre of wet land.

Explanation (ii).- Supply of power shall be given free of charge to the small farmers whose family is solely dependent on the income derived from his agricultural land holdings.

Explanation (iii). - Agricultural consumers shall be permitted lighting up to 50 watts per 1,000 watts of motive power connected, subject to a maximum of 150 watts inclusive of wattage of pilot lamps each of which shall not exceed 15 watts and with no more than 3 lamps (excluding pilot lamps) for lighting the farm or the field around the pumpset. Energy used for radios and other appliances including domestic lighting in farm houses shall be metered separately and charged for at the appropriate tariff. Agricultural consumers shall be permitted to use the water pumped from the well and stored in overhead tanks for *bona fide* domestic purposes in the farm house. The farm house shall be in close proximity not exceeding 150 feet the well.

Explanation (iv). - Extra lighting in agricultral services over the permissible limit shall be charged for either if separately metered, as per Low Tension Tariff IX or if not separately metered on a flat rate of Rs.2 per 40 watts lamp (ordinary) larger lamps in proportion. If fluorescent and mercury vapour lamps are connected the rate shall be enhanced as laid down under Low Tension Tariff II."

In the Tamil Nadu Government Gazette Extraordinary dated 19th November 1990, the following notification was published:-

"Notification

In exercise of the powers conferred by Section 4 of the Tamil Nadu Revision of Tarrif Rates on Supply of Electrical Energy Act, 1978 (Tamil Nadu Act 1 of 1979), the Governor of Tamil Nadu hereby makes the following amendment to the Schedule to the said Act.

2. The amendment hereby make shall come into force on the 19th November, 1990.

AMENDMENT

In the said Act, in the Schedule, under the heading, "Part B - Low Tension Supply", and under the sub-heading "Low Tension Tariff V

A Agriculture",

(i) for the expressions from "(a) Small Farmers" to "Lumpsum of Rs.75 per horse power per annum", the following expression shall be substituted, viz - "No Charge".

B (ii) Explanation (i) and Explanation (ii) shall be deleted.

(By Order of the Governor)

D. Murugaraj,

Secretary to Government."

C The effect of the notification was that so far as agriculture is concerned the categorization of farmers such as into 'small' and 'others' was done away with and the supply of electricity on low tension for the purpose of agriculture became free i.e. to be levied with 'no charge'. The appellants claimed benefit of the notification submitting that they were engaged in fish farming, i.e. D pisciculture, which is only a specie of agriculture and therefore they were also entitled to the benefit of notification dated 19.11.1990. However, the benefit wad denied to the appellants on the ground that they were fish farmers and engaged in pisciculture which could not be treated as agriculture. The High Court has also in its impugned judgment taken a view contrary to the contention of the appellants. They are in appeal by special leave.

E

The short question which arises for decision is : whether pisciculture is agriculture?

The Act, either in the main part, or in the Schedule detailing the tariff rates, does not define agriculture. We have, therefore, to proceed to examine F how the term agriculture is understood amongst the agriculturists and whether it was the intention of the State Legislature while enacting the Schedule as originally framed or of the State Government while issuing the notification dated 19.11.1990 to include pisciculture within the meaning of agriculture.

It is settled rule of interpretation that the words not defined in a statute G are to be understood in their natural, ordinary or popular sense. According to Justice Frankfurter, "After all, legislation, when not expressed in technical terms, is addressed to common run of men, and is, therefore, to be understood according to sense of the thing, as the ordinary man has a right to rely on ordinary words addressed." (*Wilma E. Addison* v. *Holly Hill Fruit Products*, H 322 US 607, at p.618). In determining, therefore, whether a particular import

is included within the ordinary meaning of a given word, one may have regard to the answer which everyone conversant with the word and the subject-matter of statute and to whom the legislation is addressed, will give if the problem were put to him. (Principles of Statutory Interpretation by Justice G.P. Singh, Ninth Edition, 2004, p.95)

'Agriculture' is the science or art of cultivating the soil, growing and harvesting crops, and raising livestock. The art of making land more productive is practiced throughout the world - in some areas by methods not far removed from the conditions of several thousands of years ago, in other areas with the aid of science and mechanization, as a highly commercial type of endeavour. (The New Encyclopaedia Britannica, Vol.1, p.156). According to Oxford Illustrated Encyclopedia of Invention and Technology, 'agriculture' is cultivation of the soil, including the allied pursuits of gathering crops and rearing livestock. (at p.7). 'Fish farming' is a branch of aquaculture involving the rearing of fish under controlled conditions. Ideally, the environment is controlled so that natural predators are eliminated, optimum nutrition is provided, and the fish flourish. (at p.133).

'Pisciculture' is the breeding, rearing and preservation of living fish by artificial means. (The Oxford English Dictionary, Vol.VII, p.904). According to McGraw-Hill Encyclopedia of Science & Technology, (6th Edition, Vol.7), 'aquaculture' is the artificial propagation of fishes and other aquatic organisms. (p.129). The term 'fishing' is used to mean the taking or propagation of fishes or other aquatic life in inland or oceanic water (p.128). 'Aquaculture' is the cultivation of fresh water and marine species. (The latter type is often referred to as mariculture) (McGraw-Hill, ibid, Vol. 2, p. 1.)

The High Court has delved deep into the issue and examined the question from very many angles taking into consideration several dictionaries and books on fish farming brought to its notice and also dealt with several decided cases to draw the conclusion that pisciculture is not agriculture. We have a direct decision of this Court available on the point and being a three-Judge Bench decision binds us. It is *Commissioner of Income-tax West Bengal, Calcutta* v. *Benoy Kumar Sahas Roy*, AIR (1957) Supreme Court 768 wherein the term 'agriculture' as occurring in sub-Section (1) of Section 2 of the Income-tax Act, 1961 which defines 'agricultural income' as meaning, amongst other things, 'any income derived from land by agriculture' came up for the consideration of this Court. Bhagwati, J., (as His Lordship then was) spoke on behalf of the three-Judges Bench. A reading of the judgment shows a

A research by looking into several authorities, meaning assigned by dictionaries and finding out how the term is understood in common parlance. The Court held that the term 'agriculture' has been defined in various dictionaries both in the narrow sense and in the wider sense. In the narrow sense agriculture is the cultivation of the field. In the wider sense it comprises of all activities in relation to the land including horticulture, forestry, breeding and rearing B of livestock, dairying, butter and cheese-making, husbandry etc. Whether the narrower or the wider sense of the term 'agriculture' should be adopted in a particular case depends not only upon the provisions of the various statutes in which the same occurs but also upon the facts and circumstances of each case. The definition of the term in one statute does not afford a guide to the C construction of the same term in another statute and the sense in which the term has been understood in the several statutes does not necessarily throw any light on the manner in which the term should be understood generally.

The principles which are deducible from *C.IT.* v. *Benoy Kumar* (supra) and relevant for our purpose are set out as under :-

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1. The primary sense in which the term agriculture is understood is *ager* (i.e. field) and *cultura* (i.e. cultivation), that is, the cultivation of the field and if the term is understood only in that sense, agriculture would be restricted only to cultivation of the land in the strict sense of the term meaning thereby, tilling of the land, E sowing of the seeds, planting and similar operations on the land. They would be the basic operations and would require the expenditure of human skill and labour upon the land itself. There are however other operations which have got to be resorted to by the agriculturist and which are absolutely necessary for the purpose of effectively raising the produce from the land. They F are operations to be performed after the produce sprouts from the land. .....The latter would all be agricultural operations when taken in conjunction with the basic operations above described, and it would be futile to urge that they are not agricultural operations at all.

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2. The subsequent, secondary or incidental operations must be in conjunction with and in continuation of the products raised on the land, i.e. the basic operations amounting to agriculture.

3. The term 'agriculture' cannot be confined merely to the production of grain and food products for human beings and beasts but must H be understood as comprising all the products of the land which

have some utility either for consumption or for trade and commerce and would also include forest products such as timber, sal and piyasal trees, casuarinas plantations, tendu leaves, horranuts etc.

4. The mere fact that an activity has some connection with or is in some way dependent on land is not sufficient to bring it within the scope of the term and such extension of the term 'agriculture' is unwarranted. The term 'agriculture', cannot be dissociated from the primary significance thereof which is that of cultivation of the land and even though it can be extended both in regard to the process of agriculture and the products which are raised upon the land, there is no warrant at all for extending it to all activities which have relation to the land or are in any way connected with the land. The use of the word agriculture in regard to such activities would certainly be a distortion of the term.

It is, therefore, clear that agriculture, for our purpose, need not be kept confined in its meaning to the production of grain and food products for consumption of human beings alone; it can be extended as comprising within its meaning all the products of the land involving human labour but then it is the producing capacity of the land which must necessarily be found as involved in any activity to amount to agriculture.

Shri T.L.V. Iyer, the learned senior counsel for the appellants referred to a host of authorities, which find mention in the judgment of the High Court also as they were cited there too, such as Text Book of Fish Culture, Breeding and Cultivation of Fish by Marcell Huet, Fresh Water Fish Pond Culture and Management by Joan Koster, Fresh Water Aquaculture by Dr. Rajendra Kumar Rath and many others, reference to which need not be multiplied, in his effort to demonstrate what is pisciculture and how fish farming is done. The learned senior counsel submitted that the fisheries too are treated as profits of the soil over which the water flows. Soil provides nutrients and also contributes to the pond's fertility which contributes to development of aqua products including fishes. Enlarging his submission the learned senior counsel submitted that it is the soil which retains water; it stores and releases the nutrients to the overlying water; and water in contact with bottom soil acquires nutrients from the soil, atmospheric gases and absorbs solar energy in the form lof radiation essential for the activities of aquatic animals. These inter-dependence between soil and aqua products enable the fish being called a product of soil and, therefore, fish farming is agriculture.

A We cannot agree.

The relevant entry in the Act as its historical background show was intended to provide electricity at concessional rates or free of any charge to the farmers by dividing them into classes such as small farmers and others farmers. A farmer would be an agriculturist in the traditional sense and narrow B meaning of the term. A person engaged in aquaculture or fish farming would not be called a farmer. Neither the legislature while enacting the schedule to the Act as it originally stood nor the State Government issuing the notification amending the schedule can be attributed with the intention that they had intended to make available electricity at concessional rate or without charge C to aquaculturists whose activity is purely commercial. We are also not prepared to hold that in the circle of agriculturists fish farming is understood as agriculture.

In our opinon, for the purpose of interpreting the Act and the notification issued thereunder, the term 'agriculture' has to be read in contradistinction D with the term 'aquaculture'. Pisciculture is a branch of aquaculture. Pisciculture is not agriculture.

It is true that some of the dictionaries include rearing live stock within the meaning of agriculture. Livestok means domestic animals especially horses, cattle, sheep and pigs (See Chambers Twentieth Century Dictionary, p.737). E Historically these animals are associated with agriculture as they either help in carrying out agricultural operations or they are domestically maintained in agricultural fields because can feed on products or byproducts of agriculture in its narrow sense. Fishes are not domestic animals and are not included within the meaning of the term 'livestock'.

F The learned senior counsel for the appellants invited our attention to the definition of term 'agriculture' as given in definition sections or interpretation clauses of several other enactments such as sub-section (2) of Section 2 of Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987, clause (b) of Section 2 of Tamil Nadu Agricultural University Act, G 1971, clause (a) of Section 2 of Agricultural and Rural Debt Relief Scheme, 1990, so defining the term 'agriculture' as to include therein 'pisciculture'. These definitions were pressed in service by Shri Iyer, the learned senior counsel, to support his submission for a similar meaning being assigned in the present case. Suffice it to observe that the common parlance meaning of the term 'agriculture', in the context in which it has been used and is arising H for determination before us, cannot be determined by reference to definition

given in other statutes. This we say for more reasons than one. Firstly, none of the statutes reffered to by Shri Iyer, the learned senior counsel, can be called statutes in *pari materia.* Secondly, it is common knowledge that the definition coined by the Legislature for the purpose of a particular enactment is often an extended or artificial meaning so assigned as to fulfill the object of that enactment. Such definitions given in other enactments cannot be freely used for finding out meaning to be assigned to a term of common parlance used in an altogether different setting. And lastly, as Justice G.P. Singh points out in "Principles of Statutory Interpretation" (Ninth Edition, 2004, at page 163) ".....it is hazardous to interpret a statute in accordance with a definition in another statute and more so when such statute is not dealing with any cognate subject or the statutes are not in *pari materia."* The same view has been taken in the decision of this court in *CIT, W.B.* v. *Benoy Kumar* (supra) which we have extensively referred to earlier in this judgment.

We do not find any fault or flaw in the view of the law *taken by the* High Court. The impugned judgment of the High Court, which is also reported as *(1998) III M.L.J. 680* is affirmed in its entirety. All the appeals are dismissed with costs.

B.B.B. Appeals dismissed.