

CASE NO.:
Appeal (civil) 1078-1086 of 1999

PETITIONER:
BRINDAVAN BANGLE STORES AND ORS.

RESPONDENT:
ASSISTANT COMMISSIONER OF COMMERCIAL TAXES AND ANR.

DATE OF JUDGMENT: 07/01/2000

BENCH:
S.P. KURDUKAR & V.N. KHARE & SYED SHAH MOHAMMED QUADRI

JUDGMENT:
JUDGMENT

2000 (1) SCR 97

The Judgment of the Court was delivered by

S.P. KURDUKAR, J. These appeals by Special Leave are filed by the dealers in glass and plastic bangles. The question which has been raised in these appeals is as regards the validity of imposition of entry tax on glass and plastic bangles under the Karnataka Tax on Entry of Goods Act, 1979 (for short 'the Act').

2. The State Government on 30th April, 1992 notified various commodities for purpose of levy of entry tax. Entry 30 and Entry 54 of the notification are relevant for the purposes of disposal of these appeals.

Entry 30 : Glass sheets and all articles made of glass.

Entry 54 : Plastic sheets, granules and articles made from all kinds of and all forms of plastic including articles made of polypropylene, polystyrene and the like materials.

It appears that one of the bangle merchants sought clarification from the Commissioner of Commercial Taxes as to whether "glass" bangles and plastic bangles" would be covered by Entry 30 and Entry 54 of the Notification dated 30th April, 1992 and is subject to entry tax at 2%. The Commissioner of Commercial Taxes on 21st My, 1992 in exercise of his powers under Section 12(7) of the Entry Tax Act clarified that glass bangles and plastic bangles would be covered by Entry 30 and Entry 54 of the Notification dated 30th April, 1992 and is subject to entry tax at 2%. Consequently upon the said clarification, the Assistant Commissioner of Commercial Tax made an assessment order for 1992*93 and demanded entry tax on bangles. The appellants aggrieved by the assessment orders preferred various writ petitions before the High Court of Karnataka. The Learned Single Judge after hearing the parties, by his common judgment and order dated 15th March, 1995, allowed the writ petitions and quashed the assessment order made against the appellants. The Assistant Commissioner of Commercial Taxes and the Commissioner of Commercial Taxes, the respondents herein aggrieved by the order passed by the learned Single Judge preferred writ appeals before the High Court. The Division Bench of the Karnataka High Court after hearing the parties vide its common judgment and order dated 22nd June, 1998 allowed these appeals and held that the glass bangles and plastic bangles are covered by Entry 30 and Entry 54 respectively of the Notification dated 30th April, 1992 and are subject to entry tax at 2%. Consequently, the learned Division Bench set aside the judgment and order passed by the learned Single Judge. It is against this common judgment and order passed by the Division Bench of the Karnataka High Court, the appellants have preferred these appeals.

3. Chapter 2 of the said Act deals with the levy of tax. Section 3(1) of

the Act provides that there shall be levied and collected tax on entry of any goods specified in the first schedule into a local area for consumption, use or sale therein at such rates which may be prescribed by the State Government by issuance of a Notification. Different dates could be specified in respect of different goods or different classes of goods for different local areas. In exercise of this power, the Government of Kar-nataka issued Notification No. FD 69 CET 92(i) dated 30th April, 1992. A list was accordingly appended to the Notification containing Entry 30 and Entry 54 which we have already reproduced herein above. It is common ground that these entries correspond to Entry 39 and Entry 70 to the first schedule of the said Act, but for convenience sake, we shall refer to them as Entry 30 and Entry 54 in this judgment.

4. Mr. S.K. Dholakia, learned senior Advocate appearing in support of these appeals urged that the interpretation given by the learned Single Judge as regards these two entries by following the rule of construction "noscuntur a sociis" is more appropriate and systemic because the words used by the legislatures were neither clear nor free from ambiguity. He then contended that the identity of bangles is distinct than the articles of glass. When an article acquires commercial sense and identity, then, it by necessary implication stands excluded from the general description of the material from which it is made.

5. Countering this submission, learned counsel for the respondents urged that Entry 30 and Entry 54 are very clear and unambiguous. The words of these two entries being clear and unambiguous, the question of interpretation of the same in any other meaning except giving a true meaning as they stand, does not arise. These two entries are in two parts. The first part of Entry 30 deals with the glass sheets which is nothing but raw materials required for manufacture of articles made of glass whereas the second part of the said entry relates to finished product made of glass sheets as also articles made of glass. This interpretation can be extended to Entry 54 also as it is identically worded. The words "and" occurring in Entry 30 (and Entry 54) assume great importance and it reflects the intention of the legislature that it intended to levy tax both on glass sheets as also on finished products of glass/articles made of glass, which is found in the second part of Entry 30. The same analogy would extend to Entry 54. It was, therefore, contended on behalf of the respondents that the learned Single Judge was wrong in applying the rule of construction noscuntur a sociis. The Division Bench has rightly construed both the entries and, therefore, impugned judgment calls for no interference.

6, Coming to the first submission, it is true that the identity of bangles is distinct than the articles of the glass yet they are identified are called by the name of material used for making such bangles for example glass bangles, plastic bangles etc. Even in common parlance and in the market such bangles are known as glass bangles and therefore the expression articles of glass in Entry 30 would include the bangles i.e. articles made of glass. The bare reading of Entry 30 would make it clear that the articles mentioned therein are subject to payment of entry tax. The words "and" used in Entry 30 would unmistakably indicate that the glass sheets (raw materials) as well as all articles made of glass would be subject to payment of entry tax. The same analogy has to be extended to Entry 54.

7. The second contention raised on behalf of appellants relating to clarity and ambiguity of Entry 30 and Entry 54 and application of such construction of "noscuntur a sociis" in our opinion the learned Division Bench of the Karnataka High Court has rightly held that the said rule of construction has no application to the facts and circumstances of the case. This Court in *The State of Bombay and Others v. The Hospital Mazdoor Sabha and Others*, AIR (1960) SC 610 has considered in detail the rule of construction noscuntur a sociis and in paragraph 9, it is observed thus :

"We are not impressed by this argument, it must be borne in mind that noscuntur a sociis is merely a rule of construction and it cannot prevail

in cases where it is clear that the wider words have been deliberately used in order to make the scope of the defined word correspondingly wider. It is only where the intention of the legislature in associating wider words with words of narrower significance is doubtful, or otherwise not clear that the present rule of construction can be usefully applied. It can also be applied where the meaning of the words of wider import is doubtful; but, where the object of the legislature in using wider words is clear and free from ambiguity, the rule of construction in question cannot be pressed into service,"

8. As stated earlier on reading Entry 30 and Entry 54, we have no manner of doubt that there is neither any ambiguity nor they lack any clarity. The legislature intended to levy and collect entry tax on the articles mentioned in both these entries. The words used therein are of wider import and clearly indicate that all articles made of glass or made from all kinds of and all forms of plastic including articles made of polypropylene, polystyrene and like materials are subjected to payment of entry tax. It cannot be disputed that the articles in question namely, bangles are made of glass and/or made of plastic etc. The impugned judgment has very succinctly dealt with the contentions raised on behalf of both the parties and also dealt with the various reported decisions of this Court and other High Courts in great length. We are in complete agreement with the view taken by the Division Bench.

9. Coming to the next submission of Mr. Dholakia that when an article acquires commercial sense and identity, then it by necessary implication stands excluded from the general description of the material from which it is made. In support of this submission, learned counsel relied upon the decision in *Atul Glass Industries (Pvt.) Ltd. v. Collector of Central Excise*, [1986] 3 SCC 480, *M/s. Geep Flashlight Industries Ltd., 28, South Road, Allahabad v. Union of India & Ors.*, (1984) 2 SCALE 380 and *Pardeep Aggarbatti, Ludhiana v. State of Punjab and Others*, [1997] 8 SCC 511. We have gone through these judgments and, in our opinion, the same are distinguishable on facts. The words used in the respective entries are quite distinct and, therefore, these decisions would not apply to the facts of the present case. In *Atul Glass Industries (Pvt.) Ltd. Tariff Item 23-A(4) or 68 of the First Schedule of Central Excises and Salt Act, 1944* fell for consideration, 23-A(4) relates to "Glass and Glassware" and whether glass mirrors, Glass screens fitted in motor vehicles as windscreens, rear screens and window screens fall in this item. Court held it falls under residuary Tariff Item 68. Glassware which would in common parlance meant tableware like glass tumblers, glass dishes, plates etc, and would not include glass mirrors, glass screens fitted in motor vehicles as windscreens, rear screens and window screens. However, the words used in Entry 30 "all article made of glass" and in Entry 54 "articles made from all kinds of and all forms of plastic including articles made of polypropylene, polystyrene and like materials" would make it quite clear that the entry tax is leviable on such articles. Glass bangles and plastic bangles would be clearly covered by Entry 30 and Entry 54 respectively of the said Notification and are subject to entry tax at 2%.

10. In our considered view, the impugned judgment does not suffer from any defect and or illegality and, therefore, the same has to be confirmed. We accordingly do so.

11. In the result, the appeals to stand dismissed with costs.