

Assistant Excise & Taxation Commissioner, Ferozepore and another
v. M/s. Laxmi Electric Company, Fazilka (S. S. Kang, J.)

to grant the maintenance, if claimed, to any of the parties. If that is the legal position or implication of the section then a spouse may for the same very reasons may throw away his or her right to maintenance by entering into an agreement with the other. Even the learned counsel for the respondent concedes that in case the Court comes to a conclusion that a wife who makes an application under section 25 of the Act is possessed of enough means or is financially affluent the Court may decline to grant maintenance or permanent alimony in her favour at the time of granting of a decree for divorce. If that can be the position why cannot a wife having the same affluent means barter away her right to claim maintenance through an agreement. To my mind, the entering into an agreement of the type, the one (R. 1) has been entered into between the parties, violates, no provision of law nor any public policy. As already indicated, the provisions of section 25 are only enabling; enabling a Court as well as the applicant to seek maintenance in accordance with the same.

(3) For the reasons recorded above, I allow this appeal and set aside the order of the trial Court and disentitle the respondent-wife from any maintenance or alimony in view of the agreement Ex. R. 1 which she entered into with the appellant. No costs.

N.K.S.

Before S. S. Sandhawalia, C.J. & S. S. Kang, J.

ASSISTANT EXCISE & TAXATION COMMISSIONER, FEROZEP-
 PORE and another,—Appellants.

versus

M/S. LAXMI ELECTRIC COMPANY, FAZILKA,—Respondent.

Letters Patent Appeal No. 246 of 1980.

December 6, 1982.

Punjab General Sales Tax Act (XVI of 1948)—Sections 4, 5(2), 6 and Schedule 'B' Item 34—Monoblock centrifugal pump—Whether an agricultural implement—Such pumps—Whether covered by Item 34 Schedule 'B' and exempt from sales tax.

Held, that section 4 of the Punjab General Sales Tax Act, 1948 is the charging provision and this section provides that sales-tax is

leviable on the taxable turn-over of a dealer subject to the provisions of the Act. Taxable turn-over is defined in sub-section (2) of section 5 of the Act to mean that part of the dealer's gross turn-over during a year which remains after deducting therefrom his turn-over on the sale of goods declared tax free under section 6 of the Act. Section 6 of the Act lays down that no tax is payable on the sale of goods specified in the first column of schedule 'B'. Item 34 in schedule 'B' enumerates agricultural implements which have been declared tax free. Centrifugal pumps find mention therein and the sale thereof is not liable to sales tax. A monoblock centrifugal pump or for short monoblock pumping set is a contrivance manufactured for drawing or pumping water, an electric motor coupled with the centrifugal pump by a common lathe to provide motive force to the latter. It consists of one single block. It can be purchased only as one item. If the electric motor is detached from the centrifugal pump, both cannot be used independently. The design of the centrifugal pump, which has to be used in a monoblock pumping set is different to some extent from the design of an ordinary centrifugal pump. If a centrifugal pump and a motor are purchased separately and they are joined together that contrivance is not called a 'monoblock' pumping set. Merely because an electric motor is attached to the centrifugal pump, the monoblock pumping set does not fall within the definition of electric goods. It is the intrinsic nature and the purpose for which a tool is used which will determine its nature. The electric motor is an integral part of the centrifugal pump as they are assembled on one block fitted with a common shaft. As such, a monoblock centrifugal pump is an agricultural implement covered by the definition given in Item 34 of Schedule 'B' of the Act and no sales-tax is leviable thereon. (Paras 3 and 4).

Letters Patent Appeal Under Clause X of the Letter Patent praying that the appeal be accepted, judgment of Hon'ble Mr. Justice G. C. Mittal, dated 8th January, 1980 passed in the above Civil Writ No. 3843 of 1979, be set aside and writ petition be dismissed with costs.

L. K. Sood, Advocate, for the Appellant.

Bhagirath Dass Advocate, Romesh Chand Advocate with him for the Respondent.

JUDGMENT

Sukhdev Singh Kang, J.—

(1) This judgment will govern the disposal of Letters Patents Appeals Nos. 246, 247, 248, 249, 250 and 346 of 1980. They raise

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common questions of law for decision and are directed against a common judgment of the learned Single Judge.

The facts lie in a narrow compass:

(2) The respondent in these appeals deal in agricultural implements including monoblock centrifugal pumping sets. They are registered dealers under the Punjab General Sales Tax Act, 1948 (for short 'the Punjab Act'). They used to deduct the turn over on the sale of monoblock pumping sets from their gross turn over during the year and used to pay sales tax on the taxable turn over. The authorities used to accept this position. However on the advice of the State Government, the Excise and Taxation Commissioner issued a letter No. STI/79/879, dated 9th April, 1979, to all the Assistant Excise and Taxation Commissioners in the State of Punjab, who are the assessing authorities under the Act, wherein it was stated that the Government had clarified that the monoblock pumping sets are not covered by Item No. 34—Agricultural implements as appearing in schedule 'B' of the Act and their sale is thus taxable at the rate of 6 per cent. It was directed that further action be taken accordingly. The letter had the desired effect. After its receipt the Assistant Excise and Taxation Commissioner started issuing notices under Section 21 of the Act for reopening the cases of the respondents already decided and for levying tax on sale and purchase of monoblock pumping sets. This letter impelled the respondents to file writ petitions in this Court. It was contended therein that monoblock pumping sets were centrifugal pumps which have been declared to be tax free goods by including them in Item No. 34 of schedule 'B' of the Act. The learned Single Judge upheld this contention of the writ-petitioners and held that monoblock pumping set is one complete unit manufactured and marketed as such. He concluded that the monoblock pumping sets were not liable to sales tax. Aggrieved, the State of Punjab has filed these Letters Patent Appeals.

(3) The sole question that falls for consideration is as to whether monoblock pumping sets are centrifugal pumps and are exempt from sales-tax. Section 4 of the Act is a charging provision. This section provides that sales-tax is leviable on the taxable turnover of a dealer subject to the provisions of the Act. Taxable turn-over is defined in sub-section (2) of section 5 of the Act to mean that part of the dealer's gross turnover during a year which remains after deducting there from his turnover on the sale of

goods declared tax free under section 6 of the Act. Section 6 of the Act lays down that no tax is payable on the sale of goods specified in the first column of schedule 'B' subject to the conditions and exceptions set out in the corresponding entry in the second column thereof. The dealer cannot charge sales-tax on the sale of goods declared 'tax free'. Item No. 34 in schedule 'B' enumerates agricultural implements which have been declared 'tax free'. Centrifugal pumps find mention therein and the sale thereof is not liable to sales tax.

A monoblock centrifugal pump or for short monoblock pumping set is a contrivance manufactured for drawing or pumping water, an electric motor coupled with the centrifugal pump by a common lathe to provide motive force to the latter. It consists of one single block. It can be purchased only as one item. If the electric motor is detached from the centrifugal pump, both cannot be used independently. The design of the centrifugal pump, which has to be used in a monoblock pumping set is different to some extent from the design of an ordinary centrifugal pump. If a centrifugal pump and a motor are purchased separately and they are joined together that contrivance is not called a 'monoblock pumping set.'

The dealers while selling a monoblock pumping set charge it as one item, Separate prices of the pumping set and the motor are not mentioned in the bill. It is well settled that the words 'in a Taxing Statute,' must be interpreted according to its popular sense meaning that "sense which people are conversant with the subject matter with which the statute is dealing would attribute to it." (See *Porritts and Spencer (Asia) Ltd. v. State of Haryana*, (1).

(4) Even the Assessing Authority Amritsar in Civil Writ Petition No. 3680 of 1970, decided on 27th April, 1976, held:

"Monoblock pumping sets are combination of centrifugal pumps and electric motor and they are rolled out of the factories as single units. I have even seen the centrifugal pump and the monoblock pumping set and found out that the part comprising the pumping set in the monoblock has a different shape from the combining side.

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then that of centrifugal pumps sold independently and, therefore, the assessee could not manipulate accounts by using single bill for sale of two items separately.....”

No appeal or revision was filed against this order. Annexure P/3 is another order appended to this very appeal. It has been observed therein by the Deputy Excise and Taxation Commissioner, Jullundur:

“.....monoblock pumping sets are centrifugal pumps that are coupled with electric motors. Since these are monoblock pumping sets, they are including in the term” centrifugal pumps.....and are exempted under Item No. 34 of schedule ‘B’.

The State filed an additional affidavit in some of the writ petitions. It was averred therein:

“a monoblock pumping set is one block, i.e., the centrifugal pump and an electric motor attached with one shaft and are inseparable.”

The authorities under the Act, who are conversant with this subject, have been treating monoblock pumping sets to be centrifugal pumps. Before 15th April, 1971, the tax free item under Entry No. 34 was defined as “agricultural implement implements”. The dispute arose as to whether monoblock pumping sets were exigible to sales-tax. The departmental authorities wanted that they should be treated to be electric goods which is an item taxable. A Division Bench of this Court in *Karnal Machinery Store v. The Assessing Authority, Karnal, and others*, (2) held that monoblock pumping sets when used by an agricultural would fall within the definition of agricultural implements.” Merely because in the case of one tool, the motivation is by electric energy, it does not and will not make it electrical goods. It is the intrinsic nature and the purpose for which a tool is used, which in our opinion, will determine its nature. No doubt the case related to an assessee belonging to the State of Haryana, but the Act was applicable to the territories of Haryana also. It is clear from the above decision also that monoblock pumping set does not fall within the definition of electrical goods, simply because an electric motor is attached to the

centrifugal pump. In fact the electric motor is an integral part of the centrifugal pump. They are assembled on one block fitted with a common shaft. This leads to greater efficiency, more water and lesser repair charges.

(5) The State has not placed any material on the file to support its contention that monoblock pumping set is not a centrifugal pump.

(6) We find no merit in these Letters Patent Appeals (Nos. 246, 247, 248, 249, 250 and 346 of 1980) and the same are dismissed with costs. Counsel fee Rs. 200.

S. S. Sandhawalia, C.J.—I agree.

N.K.S.

Before M. M. Punchhi, J.

AJIT SINGH and another,—Petitioners.

versus

THE STATE OF PUNJAB,—Respondent.

Criminal Revision No. 1308 of 1982.

December 8, 1982.

Indian Penal Code (XLV of 1860)—Section 406—Hindu Succession Act (XXX of 1956)—Sections 15 and 16—Father giving dowry to daughter at the time of her marriage—Daughter dying soon after the marriage leaving no child—Goods given in dowry remaining with the husband of the deceased—Father claiming goods as the only heir of his deceased daughter—Husband declining to part with such goods—Husband—Whether liable to be prosecuted under section 406—Father—Whether entitled to succeed to the goods under section 15 of the Succession Act—Nature of dispute between the parties—Whether could be said to be civil in nature.

Held, that a reading of section 15 of the Hindu Succession Act, 1956 provides for general rules of succession in the case of female Hindu. The said section provides that the property of a female Hindu dying intestate shall devolve according to the rules set out in section 16, firstly upon the sons and daughters and the husband. In the absence of the aforesaid category of heirs, the property