

A TATA ENGINEERING AND LOCOMOTIVE COMPANY LTD.

v.

THE STATE OF BIHAR AND ANR.

OCTOBER 7, 1994

B [R.M. SAHAI AND N.P. SINGH, JJ.]

Bihar Finance Act, 1981:

C *Section 13(1)(b)—Levy of tax on concessional rate—Notification regarding—Expression 'Industrial Raw Material (Inputs)'—Construction of.*

Manufacturer of Motor Vehicles, truck and bus chassis—Purchase of items such as tyres, tubes, batteries and use in vehicles—Held entitled to purchase goods at concessional rate of tax.

D *Words and Phrases : 'Raw Material'—Meaning of.*

E Section 13(1)(b) of the Bihar Finance Act, 1981 provides for special rate of tax on sale and purchase of goods used for manufacture or processing by a registered dealer in the State. In exercise of the power conferred by the said section, the State of Bihar issued a notification No. S O-604 dated 12.4.82 directing that the sales tax on Industrial raw material (inputs) payable under section 13(1)(b) shall be at the rate of one percentum.

F The appellant-company was manufacturing motor-vehicles, trucks, bus chassis, excavators and other engineering products. For this purpose, it was purchasing commodities such as tyres, tubes, batteries and various other items which were used in producing the vehicles. The company claimed that the aforesaid goods purchased by it being raw material having been required directly for use in manufacturing goods for sale in the State or in the course of inter-state trade, it was entitled to concessional rate of tax of 1% on such goods. The Deputy Commissioner, Sales Tax rejected the claim holding that items of inputs were in a finished state and were just to be fitted in the chassis without any further modification etc. Therefore, the purchase of such fittings was not covered by the notification.

H The appellant filed a writ petition before the High Court which was

dismissed by the Division Bench holding that the words 'industrial raw material (inputs)' could not be given such a wide meaning as to result in widening the scope of concessional rate even to finished products. Against the order of the High Court, the appellant preferred appeal in this court. A

Allowing the appeal and setting aside the order of the High Court, this Court B

HELD : 1. The appellant is entitled to concessional rate of tax at 1% for such items as tyres, tubes and batteries which were used in the manufacture of the vehicle etc., as raw-material. [415-D]

2. The word 'raw-material' has no fixed meaning. It may vary with the use to which it is put. An item may be raw-material for manufacturing goods 'A' and the goods so produced may itself be raw-material for goods 'B'. For instance, batteries, tyres and tubes are by themselves finished products. They on their own cannot be considered to be raw-material. But when it is used for manufacture of a vehicle then it becomes raw-material for it as it is essential and necessary for producing the good in which it has been used. No vehicle can operate or work nor can it be said to have been produced unless tyres, tubes and batteries are fixed to it. Use of these items is integrally connected with the ultimate production. They retain their identity in the end-product. But that could not exclude it from being treated as raw-material. The special rate of tax could be levied on any goods used in the manufacture. But the Government restricted it to raw materials. Yet the notification having been issued under Section 13(1)(b) the benefit would extend to every raw-material used in the manufacture of goods. In other words the concessional rate was available not only to raw-material but such raw-material as was used in the manufacture of goods. [415-E, 415-H, 416-A-C-E] C
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3. Raw material has been further explained by using the word 'inputs', which dictionary means, 'what is put in', 'enter', 'enter system'. The tyres, tubes and batteries were purchased for being put in the vehicle, which could not be operative without it. They were thus 'input'. The use of this word was indicative that the benefit was intended for every item which was raw-material in the widest sense made wider by using the expression 'input'. The purpose was for broadening the meaning of raw-material by including in it even those item which could be placed in the vehicle, to make it marketable as vehicles. The concessional rate of tax is thus applicable G
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A to that raw material that is put in the manufacture or use of the goods.

[416-F, 416-H, 417-A]

J.K. Cotton Spinning and Weaving Mills Co. Ltd. v. S.T. Officer, Kanpur & Anr., [1965] 1 S.C.R. 900; *Indian Copper Corporation Ltd. v. The Commissioner of Commercial Taxes Bihar, Patna and Ors.*, A.I.R. (1965) SC 891;

B *Collector of Central Excise, New Delhi v. Ballarpur Industries Ltd.*, [1989] 1 S.C.R. 323 and *Collector of Central Excise, Calcutta v. Jay Engineering Works Ltd.*, [1988] Supp. 3 S.C.R. 998, referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4497 of 1985.

C From the Judgment and Order dated 9.7.84 of the Patna High Court in C.W. Case No. 1339 of 1982(R).

R.F. Nariman, S. Sukumaran for JBD & Co. for the Appellant.

D D. Goburdhan for the Respondents.

The Judgment of the Court was delivered by

E R.M. SAHAI, J. The short question of law that arises for consideration in this appeal is whether any raw-material including those which were otherwise finished products used by the appellant in manufacture or processing of commercial vehicles, spare parts and other engineering products were, 'industrial raw-material (inputs)' within the meaning of the expression used in the Notification issued by the State Government on 12th April, 1982 in exercise of its power under Section 13(1)(b) of the Bihar Finance Act, 1981.

G The appellant, a registered dealer, under the Central Sales Tax Act, 1956 and the Bihar Finance Act, 1981 for purpose of manufacturing and processing its products, namely, motor vehicles, trucks and bus chassis, excavators and other engineering products, purchased commodities including such commodities as tyres, tubes, batteries and various other items which are used for producing the goods and making them saleable commodities. The appellant claimed that such goods being raw-material having been required directly for use in the manufacturing of goods for sale in the State or in course of inter-State trade the appellant was entitled to concessional rate of tax at 1% on such goods. It made an application on 27th

April, 1982 before the Deputy Commissioner for issuing certificate to enable the appellant to purchase the goods at concessional rate on which the order was passed to the following effect : A

"Only industrial raw material purchases will be subject to tax at 1%. Consumables, machinery, equipments etc., will still be subject to 3%". B

Since, according to appellant, the order was vague, it filed another application on 16th August, 1982 in which the details of the industries raw material that the appellant intended to purchase were mentioned. To this the reply given by the Deputy Commissioner was that complaints were received that the appellant was paying tax of 1%, only, on all kinds of purchases irrespective of whether materials were raw material or not. In pursuance of this letter, the appellant submitted its reply and on 26th November, 1982, the Deputy Commissioner rejected the claim of the appellant and observed as under :- C

"In my opinion the term Industrial raw materials (input) means those inputs to the extent they are raw materials. To be very clear items of inputs which are in a finished state and are just to be fitted in the chassis without any further modifications etc., which are not undergoing any further process of manufacture are not Industrial raw materials and are merely fitting. The purchases of such fittings to bring a chassis in saleable condition are not covered by the aforesaid notification no. SO 604 dated 12.4.82". D

The appellant challenged this order by way of a writ petition in the High Court which was dismissed by the Division Bench and it was held that the claim of the appellant that the Notification should be so read as to extend to all the goods required for use in manufacture or processing as contemplated by Section 13(1)(b) and not only to raw material as mentioned in the Notification, was not correct as the Section itself permitted the appellant, a manufacturer, to avail of the benefit subject to the conditions and restrictions to be prescribed. Since there was no unconditional right to pay concessional rate of tax and it depended on satisfying the conditions mentioned in the Notification, the appellant could not claim that the Notification suffered from any infirmity or that the appellant was not liable to be subjected to tax on what was raw-material even though used as finished products for the manufacture of the vehicles. The High Court held E

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A that the words 'industrial raw material (input)' could not be given such a wide meaning as to result in widening the scope of concessional rate even to finished products nor did it find any merit in the submission of the appellant that the Deputy Commissioner had passed the order, mechanically, without applying his mind.

B Section 13(1)(b) of the Bihar Finance Act, 1981, at the relevant time, read as under:-

C "S.13.-Special rate of tax on certain sales or purchases - (1) Notwithstanding anything contained in this part but subject to such conditions and restrictions as may be prescribed :-

(b) sales to or purchases by a registered dealer of goods required by him directly for use in the manufacture or processing of any goods for sale in Bihar or in course of inter-State trade or commerce".

D This Section provided for special rate of tax on sale or purchase of goods used for manufacture or processing by a registered dealer in the State. The expression used was of wide import. Similar expressions used in taxing statutes have been construed to be of expansive nature. In *J.K. Cotton Spinning & Weaving Mills Co. Ltd. v. S.T. Officer, Kanpur & Anr.*, [1965] 1
E SCR 900 it was held that the expression, "in the manufacture of goods" would normally encompass the entire process carried on by the dealer of converting raw materials into finished products. The Court observed that where any particular process was so integrally connected with the ultimate
F production of goods that but for that process, manufacture or processing of goods would be impossible or commercially inexpedient then the goods required in that process would fall within the expression, "in the manufacture of goods". In *Indian Copper Corporation Ltd. v. The Commissioner of Commercial Taxes, Bihar, Patna & Ors.*, AIR (1965) SC 891, the vehicles used for removing goods to the factory after mining operations were held to be covered in the expression, "goods intended for use in the manufacturing or processing of goods for such sale". On such wide interpretation
G any good used by the appellant which was integrally connected with manufacture or processing of vehicles would be covered in the Section. But the concessional rate of tax in the relevant year was for use of any goods under the notification issued in exercise of power under Section 13(1)(b)
H which read as under :

"NOTIFICATION"

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Dated 12th April, 1982.

S.O. 604 - In exercise of the power conferred by sub-section (1) of section 13 of Part I of the Bihar Finance Act, 1981 (Bihar Act No. 5 of 1981) and in partial modification of the notification issued from time to time on the subject, the Governor of Bihar is pleased to direct that the Sales Tax on industrial raw materials (inputs) payable under the said section 13(1)(b) of the Act shall be at the rate of one percentum.

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(3)"

What requires consideration, therefore, is whether items such as tyres, tubes, batteries etc. purchased by the appellant for use in the manufacture of vehicles which are otherwise finished products could avail of concessional rate of tax at 1%. That would depend on the construction and understanding of the expression 'industrial raw-material (inputs)' used in the Notification. The word 'raw-material' has not been defined in the Act. It has, therefore, to be understood in the ordinary and well accepted connotation of it in the common parlance of the persons who deal with it. According to dictionary, it means 'something which is used for manufacturing or producing the good'. The ordinary common sense understanding of it is that it is something from which another new or distinct commodity can be produced. When it is used in a taxing statute it may have related meaning depending on the context in which it has been used. In *Collector of Central Excise, New Delhi v. Ballarpur Industries Ltd.*, [1989] 1 SCR 323, a question arose whether every ingredient used in the manufacture of goods which retain their dominant individual identity throughout and those which are burnt up or consumed are raw material. It was held that an item to satisfy the test of raw-material must be such as should coalesce with the requirement that its utilisation is in the manufacturing process. And an ingredient which retained its identity as end-product was as much raw material as that which was consumed in manufacture. The word 'raw-material' has no fixed meaning. It may vary with the use to which it is put. An item may be raw-material for manufacturing goods 'A' and the goods so produced may itself be raw-material for goods 'B'. For instance, bat-

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- A teries, tyres and tubes are by themselves finished products. They on their own cannot be considered to be raw-material. But when it is used for manufacture of a vehicle then it becomes raw-material for it as it is essential and necessary for producing the good in which it has been used. No vehicle can operate or work nor can it be said to have been produced unless tyres, tubes and batteries are fixed to it. Use of these items is
- B integrally connected with the ultimate production. They retain their identity in the end-product. But that could not exclude it from being treated as raw-material. Since the Notification was issued under Section 13(1)(b) any good which could be included in the expression 'raw-material' would be entitled to concessional rate of tax provided it was useable in manufacture
- C or processing of goods. Reading of the Notification in any other manner would not be in harmony with the Section. The effort of the learned counsel for the State to argue that the concessional rate of tax under the Notification was available to raw-material commonly understood and it could not extend to such items which were otherwise finished products, proceeded on misconception. The special rate of tax could be levied on any goods
- D used in the manufacture. But the Government restricted it to raw materials. Yet the Notification having been issued under Section 13(1)(b) the benefit would extend to every raw-material used in the manufacture of goods. In other words the concessional rate was available not only to raw-material but such raw-material as was used in the manufacture of goods.

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- Raw material has been further explained by using the word 'inputs' which dictionarily means, 'what is put in', 'enter', 'enter system'. The concessional rate of tax is thus applicable to that raw material that is put in the manufacture or use of the goods. In *Collector of Central Excise, Calcutta v. Jay Engineering Works Ltd.*, [1988] Supp. 3 SCR 998 a question
- F arose whether name plates used by manufacturer of fans being, 'input' were exempt from payment of excise duty which provided that duty of excise leviable on such goods falling under Item 1-A of Serial No.68 as used 'inputs' would be exempt. It was held that name plate affixed on the fan was not a piece of decoration and the fan without nameplate could not be
- G marketed, therefore, it was exempt as provided in the notification and the assessee was entitled to exemption. The tyres, tubes and batteries were purchased for being put in the vehicle, which could not be operative without it. They were thus 'input'. The use of this word was indicative that the benefit was intended for every item which was raw-material in the widest
- H sense made wider by using the expression, 'input'. The purpose was for

broadening the meaning of raw-materials by including in it even those items which could be placed in the vehicle, to make it marketable as vehicles. A

In the result, this appeal succeeds and is allowed. The order passed by the High Court dismissing the writ petition of the appellant is set aside. The appellant shall be entitled to concessional rate of tax at 1% for such items as tyres, tubes and batteries which were used in the manufacture of the vehicle etc., as raw-material. B

The parties in the circumstances of the case shall bear their own costs.

T.N.A.

Appeal allowed. C