REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1746 OF 2010

BRITANNIA INDUSTRIES LTD. ...APPELLANT(S)

VERSUS

BOMBAY AGRICULTURAL PRODUCE MARKETING COMMITTEE & ANR. ….RESPONDENT(S)

WITH

CIVIL APPEAL NO. 1747 OF 2010

J U D G M E N T

R. BANUMATHI,J.

1. The issue involved in these appeals is the interpretation of the term *"Agricultural Produce"* (Section 2(1)(a) of the Act) contained in the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963.

2. The appellant filed the writ petition seeking the following declarations:

> **(i) The Maharashtra Agricultural Produce Marketing (Development) and Regulation Act, 1963 is not applicable to sugar, cashew nuts, refined oil, vanaspati and dry fruits purchased by the appellant.**
>
> **(ii) The notification dated 25.09.1987 is illegal and utra vires to the extent that it adds the above items to the Schedule of the Act.**
>
> **(iii) The bulk sugar purchased by the appellant is directly from the Sugar mills located outside the market area of the first respondent is not**

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covered by the provisions of the Act.

3. During the pendency of the writ petition, before the High Court, the appellant gave up the challenge in respect of "c*ashew nuts*" and other "*dry fruits*".

4. The question falling for consideration in these appeals is whether the provisions of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 (Marketing Act) are applicable to the products "*edible oil*", "*Vanaspati*" and "*sugar*"?

5. We have heard Mr. Jawahar Lal, learned counsel appearing on behalf of the appellant as well as Mr. Vikramjit Banerjee, learned Additional Solicitor General appearing on behalf of Respondent No. 1 - Agricultural Market Committee.

6. Section 2(1)(a) of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 defines "*agricultural produce*" as under:-

> **2(1). In this Act, unless the context otherwise requires:-**
> **(a) "*agricultural produce*" means all produce (whether processed or not) of agriculture, horticulture, animal husbandry, apiculture, pisciculture and forest specified in the Schedule.**

Section 2(1)(a) of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 unambiguously shows that the agricultural produce which are to be covered by the sweep of the Act necessarily has to be specified in the Schedule.

7. As pointed out by the High Court, "*sugarcane*" has been separately listed under Item VI in the Schedule along with Gul and Sugar and thus the intention of the Legislature is to treat sugar

as a produce of sugarcane, which is a separate agricultural produce. The High Court rightly held that sugar is a produce of agriculture coming into being in a processed form from sugarcane and the absence of the word "manufacture" in the definition of "*agricultural produce*" under Section 2(1)(a) of the Act would not in any way affect the status of sugar as being an agricultural produce under the Act.

8. Admittedly, *"sugarcane"* has been separately listed under Item VI in the Schedule along with Gul and Sugar and hence, the Committee has the power of enforcing its statutory right under Section 31 of the Marketing Act to levy market fees on the marketing of sugar in its market area.

9. So far as *"sugar"* is concerned, the High Court rejected the contention of the appellant by holding that sugar was included in the Schedule of the Act originally and it came to be deleted from Item VI by a notification dated 13.04.1982 and it is not as if for the first item that sugar is included in the agricultural produce by notification dated 25.09.1987. After referring various process involved in bringing out the sugar, the High Court has held that the sugar is an "*agricultural produce*" within the meaning of Section 2(1)(a) of the Act. The High Court also held that the intention of the Legislature is to treat sugar as produce of "*sugar cane*" as it is added along with other items. The High Court held that the absence of word *"manufacture"* would not affect the status of sugar as being an agricultural produce within the meaning of Section 2(1)(a) of the Act.

10. So far as the *"edible oil"* and the *"Vanaspati"* are concerned, the High Court has held that they are agricultural produce within the meaning of Section 2(1)(a) of the Act.

11. So far as *"Vanaspati"* is concerned, the High Court referred to entire process as to how *"Vanaspati"* is produced from *"edible oils"* and that *"edible oils"* are subject to various processes and the end product of all these processes is *"Vanaspati"*. The High Court held that the production of dalda or Vanaspati from edible oils is thus the result of the edible oils undergoing all these processes which convert edible oils to a new entity called *"Vanaspati".* Thus, the High Court concluded that *"Vanaspati"* is nothing but Hydro Generated Refined Edible Oil and is an agricultural produce within the meaning of Section 2(1)(a) of the Marketing Act.

12. In *Champak Lal H. Thakkar v. State of Gujarat* (1980) 4 SCC 329, this Court held as under:-

> **"11. …..Oil will remain oil if it retains its essential properties and merely because it has been subjected to certain processes would not convert it into a different substance. In other words, although certain additions have been made to and operations carried out on oil, it will still be classified as oil unless its essential characteristics have undergone a change so that it would be a misnomer to call it oil as understood in ordinary parlance……"**

Relying upon *Champak Lal case*, the High Court held that oil will remain oil even if it has been subject to certain processes and held that "*edible oil*" is an "*agricultural produce*" within the meaning of Section 2(1)(a) of the Marketing Act.

13. We fully agree with the conclusion of the High Court that "edible oil", *"Vanaspati"* and *"sugar"* would fall within the meaning of Section 2(1)(a) of the Marketing Act – agricultural produce. We do not find any good ground warranting interference with the findings of the High Court that *"edible oil"*, *"Vanaspati"* and *"sugar"* are agricultural produce within the meaning of Section 2(1)(a) of the Marketing Act.

14. Contention of the appellant is that it procures sugar from the sugar mills which are located beyond the limits of the market area of respondent No.1 and therefore, the said transactions do not take place within the market area so as to empower respondent No.1 to levy market fees under Section 31 of the Act read with Rule 5 of the Rules on the sugar produced from outside the market area.

15. Section 13(1A)(a) of the Act states that the area comprising Greater Bombay and Turbhe Village in Thane Taluka of Thane District or such areas as may be specified by the State Government by notification in the Official Gazette from time to time, shall be deemed to be a market area called the Bombay Market Area and respondent No. 1 is the Market Committee for that area.

16. Insofar as the contention of the appellant that the appellant is not a buyer within the meaning of Section (2)(1)(ca) as bulk sugar is purchased from outside the market area, the High Court observed:

> **"Unless the sugar procurement is done by the petitioner-company within the area of Greater Mumbai and Turbhe Village of Thane Taluka of Thane District or any other area**

> **notified by the Government of Maharashtra to be a part of the market area of respondent No. 1, it cannot levy market fees on sugar. The respondent No. 1 has no power to levy market fees under Section 31 of the Act on the entire quantity of sugar that arrives within its market area on the procurement made by the petitioner-company and directly from the sugar factories which are located within the market area of respondent No. 1. It is, therefore, necessary that the petitioner-company places before the respondent No. 1 all its record to show that sugar was procured/purchased from the places outside the market area of respondent No. 1 and if the respondent No. 1 on a verification is satisfied, to that extent the respondent No. 1 shall have no authority to levy market fees under Section 1 of the Act. This is an issue which will have to be examined by the Market Committee afresh and it is imperative for the petitioner-company to submit all the records before the respondent No. 1 for such a verification and this should be done at the earliest possible. We have no doubt in our mind that the respondent No. 1- Market Committee shall have powers to levy market fees under Section 31 of the Act only on the quantity of sugar that has been purchased/procured within its market area and it cannot levy market fees on the entire sugar quantity that is received by the petitioner-company……..."**

17. Mr. Vikramjit Banerjee, learned Additional Solicitor General, submitted that as per direction of the High Court, if the appellant is able to produce relevant documents, Respondent No. 1 shall consider the same by passing appropriate orders.

18. The relevant bills and other documents filed by the appellant insofar as alleged purchase of sugar from outside the market area (Section 2(1)(i)) shall be considered as expeditiously as possible. It is stated by the learned counsel for the appellant that the issue is concerned only limited to the period from 01.07.1988 to 03.03.2004.

19. We make it clear that the direction of the High Court in approaching the concerned Authority is restricted only to sugar.

2o. The appeals are, accordingly, dismissed.

……...J.
[R.BANUMATHI]

NEW DELHI **……...J.**
24TH JANUARY, 2019 **[R. SUBHASH REDDY]**