PETITIONER:
STONECRAFT ENTERPRISES

Vs.

RESPONDENT:
COMMISSIONER OF INCOME TAX

DATE OF JUDGMENT: 18/03/1999

BENCH:
S.P. Bharucha, R.C. Lahoti.

JUDGMENT:

Bharucha. J.

We are concerned in these appeals with the Assessment Years 1985-86, 1987-88 and 1988-89. Two questions are before us but it is apparent that the question really to be answered is the first one. The questions read thus :

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was not correct in holding that "granite" is a "mineral" within the meaning of the term found in Section 80 HHC(b)(ii), Income Tax Act?

2. Whether on the facts and in the circumstances of the case. the Tribunal was right in holding that the assessee is not entitled to the allowance claimed under Section 80 HHC in respect of the granite exported from India?"

The questions having been answered against il, the assessee is in appeal.

There is no material in the finding of the Tribunal other than the indication that the assessee exports granite. The assessee claimed for the granite which it exported the deduction available under Section 80 HHC of the Income Tax Act, 1961 as inserted by the Finance Act, 1983 with effect from I" April, 1983. The relevant provision permits, where "an assessee, being an Indian company or a person (other than a company) resident in India, is engaged in the business of export out of India of any goods or merchandise to which tlus^seclion applies", the deduction in the computation of its total income of an amount not exceeding 50^o of "the profits derived by the assessee from the export of such goods or merchandise". Sub-section (2)(b) states : "This section does not apply to the following goods or merchandise, namely: (i) mineral oil; and (ii) minerals and ores".

It is the contention of learned counsel for the assessee that while granite is a mineral in the general sense, it is not a mineral for purposes of Section 80 HHC and that. therefore, the deduction provided for therein is available to the assessee. Our attention has been drawn TO the provision as it read before the appropriate year and thereafter. Our attention has also been drawn to a circular issued in the context of the later provision. This

circular, issued by the Central Board of Direct Taxes, is dated 1st November. 1995 and records the Board's opinion that while granite alone can be considered as a mineral, any process applied to granite would deprive the quality of rough minerals from the dimensional blocks of granite, which was a value

added marketable commodity; therefore; profits derived from export of granite dimensional blocks would be eligible for deduction under Section 80 HHC of the Act. As we have already noted, there is nothing on record to indicate that what the assessee exports is such value added granite so that, even assuming that the said circular is explanatory and can, therefore, relate back to the year in question, the assessee cannot derive any assistance therefrom.

It is necessary immediately to note that the Mines and Minerals (Regulation and Development) Act covers granite as a minor mineral. This Court in The State of Mysore vs. Swamy Satyanand Saraswati (dead) by his Lrs. [AIR 1971 SC 1569] has held that granite is a mineral. The Court quoted Habbury Laws of England, thus:

'"The test of what is a mineral is what, at the date of instrument in question, the word meant in the vernacular of the mining world, the commercial world, and among land owners, and in case of conflict this meaning must prevail over the purely scientific meaning."

No material was laid by the assessee before the Tribunal to suggest that in the export world granite was treated as anything but a mineral.

Reference was made to the judgment of this Court in Banarsi Pass Chadha &. Bros. Vs. Lt. Governor. Delhi Administration & Ors. [1979 (1) SCR 271). It was there held that the word 'mineral' ia a word of common parlance, capable of a

multiplicity of meanings depending upon the context. For example, the word is occasionally used in a very wide sense to denote any substance that is neither animal or vegetable. Sometimes it is used in a narrow sense to mean no more than precious metals like gold and silver. Again, the word 'minerals' is oUten used to indicate substances obtained from underneath the surface of the earth by digging or quanying.

It is at this stage appropriate to refer to the argument of learned counsel for theasscssec based upon the doctrine ofnoscitur a sociis. which, as he submitted, has been explained by this Court in Pardeep Aggarbatti. Ludhiana vis. State of Punjab & Ors. (1997 (8) SCC 511] thus :

Entries in the Schedules of sales tax and excise statutes list some articles separately and some articles are grouped together. When they are grouped together, each word in the entry draws colour from the other words therein. This is the principle of noscitur a sociis."

It was submitted, based upon this doctrine, that the word "minerals" in Section 80 HHC should be read in the context of the word "ores" with which it was associated and

must draw colour therefrom; that is to say, it must read as referring only to such minerals as are extracted from ores and not others, thus excluding granite.

We agree that the said doctrine is applicable. The word "minerals" in sub- section (2)(b) of Section 80 HHC must be read in the context of "mineral oil" and "ores" with which it is associated. It seems to us that these three words taken

together are intended to encompass all that may be extracted from the earth. All minerals extracted .from the earth, granite included, must. therefore, be held to be covered by the provisions of sub-section (b) of Section 80 HHC. and the exporter thereof is, therefore, disentitled to the benefit of that section.

There is no merit in the appeals and they are dismissed with costs.

JUDIS