

## C.I.T. ANDHRA PRADESH

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v.

## M/S TAJ MAHAL HOTEL, SECUNDERABAD

August 12, 1971,

[K. S. HEGDE AND A. N. GROVER, JJ.]

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*Income-tax Act* (11 of 1922) s. 10(2) (vi) and (vi-b)—‘Plant’, meaning of.

During the assessment year 1960-61, the assessee, a registered firm running hotels, incurred expenditure in installing sanitary and pipe-line fittings in its hotels. On the question whether such fittings in a building run as a hotel fell within the meaning of the word ‘plant’ in s. 10(2)(vi-b) of the *Income-tax Act*, 1922, and the assessee was therefore entitled to development rebate under that sub-section, the High Court, in reference, answered in favour of the assessee.

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Dismissing the appeal to this Court,

HELD: (1) Apart from the dictionary or literal meaning of the word ‘plant’, the context of the provisions of the Act shows that sanitary and pipe line fittings are ‘plant’ under s. 10(2)(vi-b) read with s. 10(5). [173H; 174A-B]

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In computing the profits and gains of a business under s. 10(1) of the Act allowances by way of depreciation in respect of ‘plant’ under s. 10(2)(vi) and by way of development rebate in respect of ‘plant’ under s. 10(2)(vi-b) have to be made. Under s. 10(5), ‘plant’ includes vehicles, books, scientific apparatus and surgical equipment purchased for the purpose of the business profession or vocation. Where a word is not defined in a statute, it must be construed in its popular sense, that is, that sense which people conversant with the subject-matter with which the statute is dealing, would attribute to it. The word ‘includes’ is generally used to enlarge the meaning of words or phrases used in the statute so that, words and phrases may be construed as comprehending not only such things as they signify according to their nature and import, but also these things which the interpretation clause declares that they shall include. The fact that even books have been included in ‘plant’ shows that the meaning given to ‘plant’ is wide. It should cover sanitary and pipe-line fittings. [170E-H; 171E-H, 173F]

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To have such fittings in a bath room is one of the essential amenities or conveniences which are normally provided in any good hotel, and the hotelier can reasonably expect to get more custom and earn a larger profit by charging higher rates. Therefore, the fittings in the present case, were not merely a part of the setting in which the hotel business was being carried on, but were required for the purpose of the hotel business. [173C-G]

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*C.I.T., U.P. v. Indian Turpentine and Rosin Co. Ltd.*, (1970) 75 I.T.R. 533, approved.

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*Jarrold (Inspector of Taxes) v. John Good & Sons Ltd.*, (1963) 1 W.L.R. 214, applied.

A *J. Lyons Co. Ltd. v. Attorney Général*, [1944] 1 Ch. 281 and *Yarmouth v. France*, [1887] 19 Q.B. 647, referred to.

(2) The fact that the assessee while claiming depreciation allowance had included the fittings in question under the head 'furniture and fittings' and claimed higher depreciation allowance than what would be applicable to 'plant', would not detract from the meaning of the word 'plant' in s. 10(2)(vi-b). [174C-E]

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1368 of 1968.

C Appeal from the judgment and order dated August 1, 1967 of the Andhra Pradesh High Court in Case Referred No. 68 of 1964.

*S. T. Desai, J. Ramamurthi, R. N. Sachthey and B. D. Sharma*, for the appellant.

*M. Natesan and K. Jayaram*, for the respondent.

D The Judgment of the Court was delivered by

**Grover, J.**—This is an appeal by certificate from the judgment of the Andhra Pradesh High Court in a case referred under s. 66(1) of the Income Tax Act, 1922 (hereinafter referred to as the Act).

F The respondent who is the assessee is a registered firm running a hotel at Secunderabad with branches at Sultan Bazar and King Kothi in Hyderabad. During the previous year ending 30th September, 1959 relating to the assessment year 1960-61, the assessee incurred an expenditure of Rs. 57,154/- in installing sanitary fittings and of Rs. 1,370/- for pipe-line fittings. The assessee claimed development rebate on these two items at the rate of 25 per cent under s. 10(2)(vi-b) of the Act amounting in the aggregate to Rs. 14,629/-. The Income Tax Officer disallowed the claim. On appeal, the Appellate Assistant Commissioner upheld the disallowance. An appeal was taken to the Appellate Tribunal. The Tribunal rejected the appeal holding that the definition of "plant" must necessarily be the same, whether it was for claiming depreciation under s. 10(2)(vi) or for development rebate under s. 10(2)(vi-b). Accordingly, it was held that the sanitary and pipe-line fittings did not fall within the meaning of the word "plant". On being moved under s. 66(1) of

the Act, the following question was referred for the opinion of the High Court :—

“Whether the sanitary fittings and pipelines, installed in the King Kothi branch of the Hotel, constituted ‘plant’ within the meaning of sec. 10(5) of the Indian Income-tax Act and whether the assessee is entitled to development rebate in respect thereof under sec. 10(2) of the Act ?”

The High Court answered the question in the affirmative and in favour of the assessee.

The only question that was argued before the High Court and which has been debated before us is whether sanitary and pipe-line fittings in a building which is run as a hotel would fall within the meaning of the word “plant” in section 10(2)(vi-b) of the Act.

Section 10(1) of the Act provides that tax shall be payable by an assessee in respect of the profits and gains of any business profession or vocation. Sub-section (2) gives the allowances which have to be made in computation of such profits and gains. Clause (vi) of that sub-section relates to the depreciation in respect of “such buildings, machinery, plant or furniture being the property of the assessee”.

Clause (vi-b) of s. 10(2) is as follows:—

“(vi-b) in respect of a new ship acquired or new machinery or plant installed after the 31st day of March, 1954, which is wholly used for the purposes of that business carried on by the assessee, a sum by way of development rebate in respect of the year of acquisition of the ship or of the installation of the machinery or plant, equivalent to,.....”

Section 10(5) provides *inter alia* that in sub-section (2) “plant” includes “vehicles, books, scientific apparatus and surgical equipment purchased for the purpose of the business, profession or vocation”.

- A The main argument of the learned counsel for the Commissioner of Income Tax who is the appellant is that the word "plant" should not have been given a wide meaning and should have been interpreted according to the common understanding in commercial circles among persons who deal in plant and machinery. It is asserted that the development rebate cannot be claimed in respect of the items which have become a part of the building itself. It has also been pointed out that the assessee while claiming depreciation allowance has included the assets in question under the head "furniture and fittings" the rate claimed being 9 per cent which was duly allowed by the Income Tax Officer. This rate of 9 per cent was applicable under Rule 8 only to furniture and fittings used in hotels etc. If the assets were to be treated as plant, only the general rate of 7 per cent would be applicable. The definition of "plant" must necessarily, therefore, be the same whether it be for claiming depreciation under s. 10(2)(vi) or for development rebate under s. 10(2)(vi-b). It has also been suggested that the primary meaning of the word "plant" has connection with mechanical or industrial business or manufacture of finished goods from raw goods and that sanitary and pipe-line fittings could not possibly satisfy those conditions.
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- Now it is well settled that where the definition of a word has not been given, it must be construed in its popular sense if it is a word of every day use. Popular sense means "that sense which people conversant with the subject matter with which the statute is dealing, would attribute to it". In the present case, s. 10(5) enlarges the definition of the word "plant" by including in it the words which have already been mentioned before. The very fact that even books have been included shows that the meaning intended to be given to "plant" is wide. The word "includes" is often used in interpretation clauses in order to enlarge the meaning of the words or phrases occurring in the body of the statute." When it is so used, these words and phrases must be construed as comprehending not only such things as they signify according to their nature and import but also those things which the interpretation clause declares that they shall include. The word "include" is also susceptible of other constructions which it is unnecessary to go into.
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The case—*J. Lyons and Company Limited v. Attorney General* (1) relied upon by the learned counsel for the appellant apart from being distinguishable hardly supports the contention of the appellant. In that case, it was held that electric lamps and fittings in a tea shop were not part of the apparatus used for carrying on the business but were part of the setting in which the business was carried on, and, therefore, were not “plant”, within the meaning of certain provisions of the War Damage Act, 1943. It was observed at page 286 “if these articles are plant, it can only be by reason that they are found on premises exclusively devoted to trade purposes. Trade plant alone need be considered”. The meaning of “plant” as given in *Yarmouth v. France* (2) was accepted as correct. According to that meaning “plant” includes whatever apparatus or instruments are used by a businessman in carrying on his business”. In our judgment, the more apposite decision is that of the Court of Appeal in *Jarrold (Inspector of Taxes) v. John Good & Sons Ltd.* (3) There the nature of the assessee’s business required that its office accommodation should be capable of sub-division into a number of rooms varying in size etc. according to the requirements from time to time of the agencies which it carried on. The office accommodation consisted of a large open floor space in which partitions could be erected so as to sub-divide the floor space into a number of rooms of any size. Certain partitions were made which were screwed to the floor and ceiling only and could be easily moved if it was desired to alter the size of number of the rooms. The question was whether these partitions were plant within sections 279 and 280 of the English Income Tax Act 1952, so as to entitle the company to allowances under those sections. There the material words in the statute were “where the person carrying on a trade in any year of assessment has incurred expenditure on the provision of machinery or plant for the purposes of the trade.” It was held that the partitions were “plant” as they were used in the carrying out of the company’s trade or business. Donovan, L.J. held that the partitions were used to enable the trader to cope with the vicissitudes of

(1) [1943] (1) Ch. 281.

(2) [1887] (19) Q. B. 647.

(3) [1963] (1) W.L.R. 214.

A the business as it increased and diminished and relied  
 on the finding of the commissioners that the flexibility of  
 accommodation which the partitions provided was a  
 commercial necessity for the company. Further illus-  
 B trations were given of assets which would fall within  
 the meaning of "plant". "The heating installation of a  
 building may be passive in the sense that it involves no  
 moving machinery, but few would deny it the name of  
 "plant". The same thing could, no doubt be said of many  
 air conditioning and water softening installations".

C It cannot be denied that the business of hotelier is  
 carried on by adapting a building or premises in a suitable  
 way to be used as a residential hotel where visitors come  
 and stay and where there is arrangement for meals and  
 other amenities are provided for their comfort and con-  
 D venience. To have sanitary fittings etc. in a bath-room  
 is one of the essential amenities or conveniences which  
 are normally provided in any good hotel, in the present  
 times. If the partitions in *Jarrold's* case (*supra*) could  
 be treated as having been used for the purpose of the  
 business of the trader, it is incomprehensible how sanitary  
 fittings can be said to have no connection with the business  
 E of the hotelier. He can reasonably expect to get more  
 custom, and earn larger profit by charging higher rates  
 for the use of rooms if the bath-rooms have sanitary fittings  
 and similar amenities. We are unable to see how the  
 sanitary fittings in the bath-rooms in a hotel will not  
 be "plant" within s.10(2)(vi-b) read with Section 10(5)  
 F when it is quite clear that the intention of the Legislature  
 was to give it a wide meaning and that is why, articles  
 like books and surgical instruments were expressly in-  
 cluded in the definition of "plant". In decided cases,  
 the High Courts have rightly understood the meaning of  
 the term "plant" in a wide sense. (See *Commissioner of*  
 G *Income-tax, U.P. v. Indian Turpentine and Rosin Co. Ltd.*) (1)

If the dictionary meaning of the word "plant" were  
 to be taken into consideration on the principle that the  
 literal construction of a statute must be adhered to unless  
 the context renders it plain that such a construction cannot  
 H be put on the words in question—this is what is stated  
 in Webster's Third New International Dictionary:—

(1) [1970] (75) I.T.R. 533.

“Land, buildings, machinery, apparatus and fixtures employed in carrying on trade or other industrial business....”

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It is, however, unnecessary to dwell more on the dictionary meaning because looking to the provisions of Act, we are satisfied that the assets in question were required by the nature of the hotel business which the assessee was carrying on. They were not merely a part of the setting in which hotel business was being carried on.

B

The High Court was right in not accepting the reasoning of the Tribunal based on the rates relating to depreciation under s.10(2)(vi) and the assessee having claimed that the sanitary and pipe-line fittings fell within the meaning of “furniture and fittings” in Rule 8(2) of the Rules. It has been rightly observed that the Rules were meant only for the purpose of carrying out the provisions of the Act and they could not take away what was conferred by the Act or whittle down its effect. If the assessee had claimed higher depreciation allowance that would not detract from the meaning of the word plant in clause (vi-b) of s. 10(2).

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In the result, this appeal fails and it is dismissed with costs.

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V.P.S.

*Appeal Dismissed.*