central enactment can repeal and re-enact the provisions of a previous Central enactment as well as those of a previous State enactment, and we find no valid reason to hold that the words "former enactment" have reference only to the former Central enactment and not to former State enactment. We, therefore, affirm the finding of the learned Single Judge.

The appeal, consequently, fails and is dismissed, but, in the circumstances, we leave the parties to bear their own costs.

D. FALSHAW, C.J.—I agree.

R.S.

SALES-TAX REFERENCE

Before R. P. Khosla and Inder Dev Dua, JJ.

MESSRS JUGINDER NURSERY,—*Petitioner.*

versus

THE COMMISSIONER OF SALES-TAX, DELHI STATE,—*Respondent.*

Sales Tax Reference No. 4-D of 1958

April 7, 1966.

Bengal Finance (Sales-tax) Act (VI of 1941)—Second Schedule item No. 7—Flower plants—Whether exempt from payment of sales-tax—Interpretation of taxing statute—How to be made.

Held, that flower plants are not exempt from the payment of sales-tax under item No. 7 of the second schedule to the Bengal Finance (Sales-tax) Act, 1941. The word "plants" as used therein does not connote a distinct item wholly unconnected with or unrelated to the words "vegetables, green or dried and vegetable seeds". The word "plants" has not been used in the comprehensive sense.

Held, that there is no equity in the case of taxing statutes and they have to be reasonably interpreted on the plain meaning of the language used by the Legislature. A strict or liberal construction is simply a means by which the scope of a statute is extended or restricted in order to convey the legislative meaning. Now, the long range objectives of all tax measures is the accomplishment of

good social order and too strict interpretation of tax laws with the sole object of giving benefit to the tax-payer may result in the loss of revenue at the expense of the State and may operate to the disadvantage of others contributing to its support. Of course, the charging section must be quite clear and unambiguous because tax can only be imposed by authority of law and such law must accordingly be reasonably clear in its mendate. At the same time, when an assessee chooses to bring his case within an exemption from the imposition, it is for him to bring his case quite clearly within the language of the exemption. Broadly speaking, grant of tax exemption also attracts a construction which is inspired by the rule that the burdens of taxation should be distributed equally and fairly among the members of society.

Application for reference to the High Court under section 21(1) of the Bengal Finance (Sales-tax) Act, 1941, as extended to the State of Delhi, of following questions of law arising out of the Order of the Chief Commissioner, dated June 14, 1958, passed in revisions against sales-tax assessments for the period March 10, 1955, to March, 31, 1955 and 1955-56 in the case of Messrs. Juginder Nursery, Gurdwara Rakab Ganj, near Central Secretariat, New Delhi, for decision :—

(1) *Whether the word "Vegetable" in item No. 7, quoted above qualified the word "Seeds" alone or it qualifies the word "plants" as well ?*

(2) *Whether there are any vegetable plants as such in the world ?*

G. S. Vohra and M. K. Chawla, Advocates, for the Petitioner.

S. N. Shanker and N. S. Srinivasa Rao, Advocates, for the Respondents.

JUDGMENT

Dua, J.—The short question falling for decision in this reference is whether flower plants are exempted under item No. 7 of the Second Schedule to the Bengal Finance (Sales-Tax) Act, 1941 as extended to the Union Territory of Delhi. Item No. 7 is in the following terms:—

> "Vegetables, green or dried and vegetable seeds and plants (other than medical preparations) (except when sold in sealed containers)."

The decision of this question depends ultimately on whether the word "vegetable" in this item qualifies only the word "seeds" or it qualifies the word "plants" as well. Indeed, the assessee had in his application for reference formulated the question on these lines.

The assessee in the present case carries on the business of growing and selling flower and other plants and it is contended on his behalf by Shri Vohra that the word "plants" in the item in question is intended to be used as an independent category of exempted goods and it is not confined to vegetable plants only. It may be observed here that the assessee was assessed to sales-tax on the sale of plants other than vegetable plants. In fairness to the learned counsel, I must state that he has not attempted to argue that the expression "vegetable plants" would include "flower plants", and indeed it is conceded that the Supreme Court as in *Ramavatar Budhai Prasad* v. *The Assistant Sales-Tax Officer* (1), authoritatively held that the word "vegetables" as used in the C.P. and Berar Sales Tax Act, Schedule II, item No. 6 must be construed in its popular sense, meaning that sense which people conversant with the subject-matter with which the statute is dealing would attribute to it. Thus construed, it was understood to denote class of vegetables which are grown in a kitchen garden or in a farm and are used for the table. The ratio of that decision is conceded to cover the present case. Since Shri Vohra has not contested this view, it is unnecessary to refer in detail to the cases cited by Shri S. N. Shankar, on behalf of the Revenue, namely *Firm Shri Krishna Chaudhry* v. *Commissioner of Sales-Tax, U.P.* (2), *M.P. Pan Merchants' Association* v. *State of M.P.* (3) *and Kokil Ram* v. *Province of Bihar* (4). It is equally unnecessary to refer to *Dharamdas Paul* v. *Commissioner of Commercial Taxes* (5), which has been sought to be distinguished by Shri Vohra.

Reading the plain language of item No. 7, I am unable to construe the word "plants" as used therein to connote a distinct item wholly unconnected with or unrelated to the words "vegetables, green or dried and vegetable seeds". Looking at the scheme of the Second Schedule also, I do not think the Legislature intended to use the word "plants" in the comprehensive sense suggested by Shri Vohra. Such a construction, in my opinion, does not conform to the scheme in which various items have been categorised as exempted goods in this Schedule. The expressions "other than medical preparations" and "except when sold in sealed containers" used after the word "plants" in the item in question would also seem to me to

(1) (1961) 12 S.T.C. 286.
(2) (1956) 7 S.T.C. 743. (All.).
(3) A.I.R. 1956 Nag. 54.
(4) A.I.R. 1951 Pat. 367.
(5) (1958) 9 S.T.C. 1947 (Cal.).

indicate the intention of the law-maker to govern not only the word "plants", but also the preceding categories of goods, namely, "vegetables, green or dried and vegetable seeds", and if that be the true legislative scheme, it is difficult to impute to the Legislature an intention to use the word "plants" as a distinct category of goods designed to include all kinds of plants, whether vegetable or otherwise. The opening word of this entry, namely, "vegetables" seems to me also to supply the key to the legislative intent as to the meaning of this entry as a whole.

Shri Vohra has then contended that in case of a taxing statute, the Court must place a strict construction in favour of the assessee and that unless the language of item No. 7 in the Second Schedule can be held without any doubt to be restricted only to vegetable plants, the assessee must get the benefit of the ambiguity in this language. In my opinion, the language used in the relevant item is quite clear and plain and is not capable of any other meaning than the one adopted by the Sales-Tax Department. I should, however, like to point out that there is no equity in the case of taxing statutes and they have to be reasonably interpreted on the plain meaning of the language used by the Legislature. A strict or liberal construction is simply a means by which the scope of a statute is extended or restricted in order to convey the legislative meaning. Now, the long range objectives of all tax measures, it may be recalled, is the accomplishment of good social order and too strict interpretation of tax laws with the sole object of giving benefit to the tax-payer may result in the loss of revenue at the expense of the State and may operate to the disadvantage of others contributing to its support. Of course, the charging section must be quite clear and unambiguous because tax can only be imposed by authority of law and such law must accordingly be reasonably clear in its mendate. At the same time, when an assessee chooses to bring his case within an exemption from the imposition, it is for him to bring his case quite clearly within the language of the exemption. Broadly speaking, grants of tax exemption also attract a construction which is inspired by the rule that the burdens of taxation should be distributed equally and fairly among the members of society. From whichever point of view the matter is considered, it appears that the word "vegetable" is intended to qualify the word "plants" as well.

For the foregoing reasons, our answer to the question referred is in favour of the Revenue, namely, that flower plants are not

exempted under item No. 7, Schedule II to the Bengal Finance (Sales-Tax) Act, 1941. There would be no order as to costs of this reference.

R. P. KHOSLA, J.—I agree.

B.R.T.

REVISIONAL CIVIL

Before Daya Krishan Mahajan, J.

ROSHAN SHARMA,—*Appellant.*

versus

DWARKA DASS, —*Respondent.*

Civil Revision No. 851 of 1965.

April 7, 1966.

East Punjab Urban Rent Restriction Act (III of 1949)—*S.* 15(3)—*Appellate Authority—Whether can dismiss the appeal in default.*

Held, that when neither the appellant nor his advocate appears to show that the decision of the Rent Controller is in any way erroneous, the Appellate Authority has no other course but to dismiss the appeal. The dismissal of the appeal in such circumstances is nevertheless a decision of the appeal.

Petition under section 15(5) *of Act* 3 *of* 1949, *for revision of the order of Shri Gurbachan Singh, Appellate Authority, Patiala, dated the 6th September,* 1965, *and refusing the restoration of the appeal.*

S. K. HIRAJEE, ADVOCATE, for the Appellant.

K. N. TEWARI, ADVOCATE, for the Respondent.

JUDGMENT

MAHAJAN, J.—This is a petition for revision against the order of the appellate authority refusing to restore the appeal which had been dismissed by it for default of appearance either of the appellant or of his counsel.