(1969) 12 KAR CK 0014

In the Karnataka High Court

Case No : S.T.R.P. No''s. 17 and 18 of 1968

A.K. Swamy and Brothers — APPELLANT

Vs

The State of Mysore and Another — RESPONDENT

Date of Decision : 10-12-1969

Acts Referred:
Mysore Sales Tax Act, 1957 — Section 23 (1), 5 (1)

Citation : (1970) 1 MysLJ 258 : (1970) 25 STC 227

Hon'ble Judges : G.K. Govinda Bhat, J;B. Venkataswami, J

Bench : Division Bench

Advocate : K. Prahalada Rao, for the Appellant; S.R. Rajasekhara Murthy, High Court Government Pleader, for the Respondent

Judgement

Govinda Bhat, J.—These two revision petitions preferred u/s 23(1) of the Mysore Sales Tax Act, 1957 (hereinafter referred to as the "Act") relate to the assessment years 1962-63 and 1963-64. The petitioner who is a manufacturer of seat covers for scooters, supplies scooter seat covers made on rexine cloth to Messrs Stan Lucas Services, who are dealers in Vespa Scooters. The assessing authority has levied tax on the turnover of the seat covers at 7 per cent. under serial No. 73 of the Second Schedule of the Act. The petitioner contended that the articles sold by him do not fall within serial No. 73 of the Second Schedule of the Act but u/s 5(1) of the Act, under which the tax is charged at 2 per cent. of the turnover.

2. The question for decision is whether the scooter seat covers come within serial No. 73 of the Second Schedule of the Act. Serial No. 73 of the Second Schedule reads thus :

"Articles (including rubber and other tyres and tubes and batteries) adapted for use as parts and accessories of motor vehicles, not being such articles as are ordinarily also used for purposes other that as parts or accessories of motor vehicles."

3. The word "adapt" according to the Webster''s International New Dictionary means "to alter so as to fit for new use". From the language of serial No. 73 of the Second Schedule, it appears to us that the Legislature had in mind the case of articles which are ordinarily used for one purpose but by alteration made are used for a different purpose, viz., as parts and accessories of motor vehicles, and it is to such articles that serial No. 73 of the Second Schedule applies.

4. In the instant case, the seat covers are manufactured out of rexine cloth for the specific purpose of seat covers only. The seat covers are not altered to serve a new use. Therefore, it is clear that the articles manufactured and sold by the petitioner-assesses do not fall within entry No. 73 of the Second Schedule of the Act. In that view the turnover should have been assessed at 2 per cent. u/s 5(1) of the Act. The tax will be computed for the two assessment years at the rate provided u/s 5(1) for the relevant years. No costs.

5. Petition allowed.