(1976) 09 P&H CK 0013

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 3301 of 1976

Ambala Coach Builders APPELLANT

Vs

The State of Haryana and Another RESPONDENT

Date of Decision : 24-09-1976

Acts Referred:
Haryana General Sales Tax Act, 1973 — Entry 1 Schedule A

Citation : (1977) 39 STC 44

Hon'ble Judges : O. Chinnappa Reddy, J

Bench : Single Bench

Advocate : R.N. Narula, for the Appellant; Naubat Singh, Assistant Advocate-General, for the Respondent

Final Decision : Allowed

Judgement

O. Chinnappa Reddy, J.—If bus bodies mounted on motor chassis fall within entry 1 of Schedule A of the Haryana General Sales Tax Act, they are chargeable to sales tax at the rate of 10 per cent. If they do not fall within that entry, they are chargeable to sales tax at the rate of 6 per cent. Entry 1 is as follows :

Motor vehicles, including accessories and chassis of motor vehicles, motor tyres and tubes and spare parts of motor vehicles.

2. The meaning of the expression "accessories" was considered by the Supreme Court in Annapurna Carbon Industries Co. Vs. State of Andhra Pradesh, . The Supreme Court said :

A sense in which the word ''accessory'' is used is given in Webster''s Third New International Dictionary as follows : ''an object or device that is not essential in itself but that adds to the beauty, convenience, or effectiveness of something else''. Other meanings given there are : ''supplementary or secondary to something of greater or primary importance''; ''additional''; ''any of several mechanical devices that assist in operating or controlling the tone resources of an organ''. ''Accessories'' are not necessarily confined to particular machines for which they may serve as aids. The same item may be an accessory of more than one kind of instrument.

3. We may also note that another meaning given to the expression "accessory" in Webster''s New English Dictionary is "an article of device that adds to the convenience of something else but is not essential as a speedometer in an automotive vehicle".

4. It is difficult to treat the bus bodies mounted on motor chassis as accessories. They are integral parts of motor vehicles. As pointed out by Pathak, J., in Commissioner of Sales Tax, Uttar Pradesh, Lucknow v. Pritam Singh [1968] 22 S.T.C. 414 :

To function as a conveyance, the motor vehicle must be capable of accommodating the passengers or carrying the goods intended to be conveyed. If it functions as a stage carriage, it must have a body designed to accommodate passengers. If it is intended to function as a carrier of goods, it must be designed to carry goods. Unless it is so designed, it is incapable of ordinarily discharging the purpose for which it is intended. There can be no dispute that in order to serve that purpose effectively it is necessary for a motor vehicle to have a body mounted on it. The design of that body will vary according to whether the motor vehicle is intended to convey passengers or goods. But a body there must be and unless there is a body it is not possible to say that a motor vehicle as understood in the popular or commecial sense has come into being. A motor and chassis on wheels is an incomplete motor vehicle: It cannot be employed for the purpose for which motor vehicles are normally intended. It needs something more to complete it and that something is an appropriate body mounted and fitted on the chassis.

5. Pathak, J., proceeded to hold that a bus body was a component part of a motor vehicle.

6. In Bajoria Halwasiya Service Station v. State of Uttar Pradesh [1970] 26 S.T.C. 108 it was held that a bus body could not be called a spare part since in popular parlance the words "spare parts" when used with reference to motor vehicles meant duplicate parts of a motor vehicle kept in readiness to replace loss or breakage, etc. Bus bodies had to be fabricated and constructed when needed and were not available in the market as such. They could not be called spare parts of motor vehicles. The same view was expressed by the Delhi High Court in Sujan Singh v. Appellate Assistant Commissioner of Sales Tax [1969] 24 S.T.C. 504. In Pothula Subba Rao v. State of Andhra Pradesh [1972] 30 S.T.C. 69 the view was expressed that the chassis of a motor vehicle could not by itself be said to be a motor vehicle without something being mounted on it to make it a bus or a truck. Following the view of the Allahabad High Court in Commissioner of Sales Tax, U.P. v. Pritam Singh [1968] 22 S.T.C. 414 it was held that bus bodies were component parts of motor vehicles. The view expressed by the Madras High Court in Simpson & Co. Ltd. v. State of Madras [1969] 23 S.T.C. 374 that bus

bodies could not be regarded as component parts of vehicles or even as accessories thereto was dissented from.

7. It is clear from what has been said above that bus bodies mounted upon motor chassis cannot be regarded as accessories or spare parts but should be regarded as component parts of motor vehicles. This is not disputed by Shri Naubat Singh, Assistant Advocate-General, Haryana. However, he argued that the expression "motor vehicles" should be interpreted in the context as including component parts of motor vehicles. He argued that the fact that the expression "including accessories and chassis of motor vehicles" followed the expression "motor vehicles" in item 1 of Schedule A could only lead to the conclusion that the expression "motor vehicles" included component parts of motor vehicles. There is no force in the submission. A reference to the other items mentioned in Schedule A makes this very clear. For example, item 3 mentions "refrigerators and component parts thereof". Item 6 mentions "cameras, lenses...and other parts and accessories required for use therewith". Item 7 mentions "all clocks and parts thereof". Item 16 mentions "gramophones and component parts thereof". It is seen that wherever the legislature wanted component parts to be taxed in the same manner as the principal machine or equipment of which they were parts, it had expressly said so. I am, therefore, unable to say that the expression "motor vehicles" includes its component parts such as bus bodies. In fact this had been the view of the department itself until very recently as may be seen from the instructions issued by the Government on 9th September, 1964, according to which, sales tax had to be charged at the general rate of 6 per cent and not at the special rate of 10 per cent. It is only recently that these instructions have been modified and fresh instructions issued on 8th October, 1974. Bus bodies have now been instructed to be taxed at the rate of 10 per cent. Even this was done because of an objection raised by the audit party of the office of the Accountant-General, Haryana. I, therefore, hold that bus bodies on motor chassis are not liable to be taxed as if they fall within entry 1 of Schedule A. The writ petition is, therefore, allowed and the order dated 4th May, 1976, of the Excise and Taxation Officer is quashed.