(1958) 01 MP CK 0032

In the Madhya Pradesh High Court

Case No : Rev. Application No. 6/XXIV-2/57

Ambalal Damodardas and Another — APPELLANT

Vs

The Municipal Committee, Sausar — RESPONDENT

Date of Decision : 21-01-1958

Acts Referred:

Citation : (1958) MPLJ 331

Hon'ble Judges : R.D. Shukla, Member

Bench : Single Bench

Advocate : Swami Saran, for the Appellant; P.D. Gupta, for the Respondent

Final Decision : Allowed

Judgement

R.S. Shukla, Member

The point for decision in this revision is whether the school-books imported by the applicant within the limits of the Sausar Municipality are subject to the octroi tax.

The relevant portion of the schedule of goods liable to octroi tax in the Municipal Committee Sausar, as per Government Notification No. 1783-2105-M-XIII, dated 5-4-56, is as follows:

62. Stationery and papers of all kinds if not provided elsewhere, ink, paper-weights, call-bells, sealing wax, glue, card-board, pads, box-boards, straw-boards, fountain pens and their accessories, blank and heading printed ledgers or account registers, envelopes, cards, paper-bags, forms etc. of all kinds.

It is contended by the non-applicant, Municipal Committee, that the words " papers of all kinds " in the above schedule should be taken to include school-books. This view was up-held by the lower Court in the following few words used in reference to the Petitioner''s arguments.

I am not inclined to agree. Books are included in stationery and papers of all kinds. This view is un-supported by any reasons and it is not possible to know what led the lower Court to come to the above conclusion.

The opposite view is that the intention of the schedule-makers should be inferred from the description of other articles made taxable under item 62. In this view " stationery and papers of all kinds " cannot be taken to include school-books.

A reading of item 62 shows that the taxable articles under this item, if not provided elsewhere, are of two categories, viz. (i) stationery and (ii) papers of all kinds. The specific articles mentioned in the item are illustrative of the articles of (i) stationery or (ii) articles of paper and as the word "etc." shows the list is not exhaustive. This reading is based on the fact that the various articles mentioned in the item are nothing else than articles of stationery and paper although the given series of articles is not preceded by "such as" or "like" or some similar words.

In this connection it might be mentioned that although the principle of ejusdem generis does not, strictly speaking, apply in the instant case as the general words like "stationery and papers of all kinds" do not follow but precede the more specific words like "ink, paper weights" etc., it would not be wrong to say that the illustrative articles in item 62, would alone furnish a clue to the enquiry before us. For if the words "stationery and papers of all kind" had occurred at the end of the item, the scope of taxation would not have been different from what it appears to be at present.

Keeping the above in mind, we have now to examine whether, in the light of the illustrative list of articles, ''school-books'' would fall within either of the categories of articles of "stationery" or "papers of all kinds".

The (earned counsel for the applicants argued that a school-book is also made of paper and referred to the dictionary meaning of ''book'' which is in the following terms:

Book:-a collection of sheets of paper bound together, either printed, written on, or blank: a literary composition: a division of a volume or subject: the

Bible:-a betting-book, or record of bets made with different people:

Although a definition in a Dictionary is no authority for a judicial finding, it would be seen that the above definition cannot be reconciled with the context indicated by the words "stationery and papers of all kinds"; nor can a ''school-book'' be called similar in kind to the various paper-made articles mentioned in item 62. A ''school-book'' is easily distinguishable from "card-boards", "pads" etc., on the one hand, and from the "Ledger" or "Account-registers" or "forms" on the other hand. If the rule-makers had really intended to tax such a common and well-known thing as ''school-books'', there should have been little difficulty in specifically adding "school-books of all kind" or some such phrase in the tax-schedule.

The Learned Counsel then argued that the entire tax-schedule being very exhaustive it was inconceivable that ''books'' should have been intended to be kept out of the octroi-tax. This argument amounts to a begging of the question. There is nothing in the relevant rules or the tax-schedule to indicate that the octroi-tax is to be all-pervading so as to rule out any exemption whatsoever. Moreover, a fiscal statute has to be strictly interpreted and there is no room for equitable principles in such matters.

Thus, in my opinion, neither the wordings of item 62 nor the intention of the rule-makers indicate that ''school-books'' are subject to octroi-tax.

Lastly, it may, at best, be said that the question at issue is not free from reasonable doubt. Even in this aspect of the case, the doubt will have to be resolved in favour of the tax-payer according to the well-established rule of interpretation.

For reasons stated above, I hold that the order of the Court below is not in accordance with law. The Municipal Committee acted without jurisdiction in imposing the impugned tax. The revision is accordingly allowed and the order of the Court below is set aside. Tax if collected from the applicants should be refunded forthwith.