(1987) 04 RAJ CK 0004

In the Rajasthan High Court

Case No : S.T. Revision No. 67 of 1987

Assistant Commercial Taxes Officer — APPELLANT

Vs

Ramesh Leather Store — RESPONDENT

Date of Decision : 27-04-1987

Acts Referred:

Citation : (1987) 67 STC 462

Hon'ble Judges : J.S. Verma, C.J

Bench : Single Bench

Advocate : Madan Lal Natani, C.T.O. Litigation, for the Appellant;

Final Decision : Dismissed

Judgement

J.S. Verma, C.J.—This is a revision by the department against the order of the Board of Revenue dated 31st July, 1974 passed in favour of the assessee. The only question for decision is, whether the Board of Revenue has rightly held that the dressed sheets of hides/skins consisting of leather clippings used as soles in footwear were taxable under entry No. 12 and not entry No. 36 of the Notification No. F. 5(16)FD(CT)/69-2 dated 8th March, 1969. The contention of the department reiterated in "this revision is that these goods are exigible to sales tax under entry No. 36 and not entry No. 12. These entries read us under :

12. Hides and skins, whether raw or dressed." "36. All kinds of leather goods except footwear.

2. A bare perusal of the above entries shows that hides and skins of all kinds, whether raw or dressed, fall within entry No. 12 and entry No. 36 covers only that category of goods which is called leather goods except footwear. It is clear that in order to attract entry No. 36 the goods should be leather goods that is some article made out of leather, but footwear made out of leather is excluded therefrom. On the other hand, entry No. 12 is wide enough to cover hides and skins in whatever form whether raw or dressed. In the present case, the goods comprised of dressed sheets of skins and hides which is said to be used as soles

in footwear. Even assuming that the goods can be treated as leather goods, which in my opinion it cannot; it would form a part of the footwear, and footwear being expressly excluded from entry No. 36, the same cannot be treated as covered by entry No. 36. As compared to entry No. 36, it is clear that entry No. 12 is more appropriate for the goods in question, and, therefore, it is entry No. 12 which is attracted.

3. On behalf of the petitioner reliance, was placed on the decision in A. Hajee Abdul Shakoor and Company Vs. State of Madras, The decision is clearly distinguishable. The question there was, whether hides and skins in untanned condition was a different article than tanned hides and skins. It was held that the two were different commodities, and constitute two separate categories for purposes of taxation. The question involved therein did not relate to construction of entries like the aforesaid entries Nos. 12 and 36 involved for decision in this revision.

4. Consequently, the revision is dismissed.

5. No order as to costs.

