(1968) 07 GUJ CK 0011

In the Gujarat High Court

Case No : Sales Tax Reference No. 4 of 1967

Chandan Metal Products Pvt. Ltd. APPELLANT

Vs

The State of Gujarat RESPONDENT

Date of Decision : 03-07-1968

Acts Referred:
Bombay Sales Tax Act, 1959 — Section 52, 61

Citation : (1969) 23 STC 29

Hon'ble Judges : R.B. Mehta, J;B.J. Divan, J

Bench : Division Bench

Advocate : K.H. Kaji and S.L. Mody, for the Appellant; J.M. Thakore, Advocate-General and H.V. Chhatrapati, instructed by Bhaishanker Kanga and Girdharlal, for the Respondent

Judgement

Divan, J.—In this reference u/s 61 of the Bombay Sales Tax Act. 1959 (hereinafter referred to as the Act), the following two questions have been referred to us by the Tribunal :-

"(1) Whether on the facts and in the circumstances of the case and on correct interpretation of entry 44H of Schedule C to the Bombay Sales Tax Act, 1959, shelving rack sold under the bill dated December 30, 1964, by the applicant is iron and steel furniture within the meaning of the aforesaid entry ?

(2) Whether on the facts and in the circumstances of the case and on correct interpretation of entry 44H of Schedule C to the Bombay Sales Tax Act, 1959, binstak sold under the bill dated December 30, 1964, by the applicant is iron and steel furniture within the meaning of the aforesaid entry ?"

2. The facts leading to this reference are as follows :-

The applicant before us is the assessee and is a private limited company manufacturing iron and steel products, component parts and accessories. The assessee applied to the Deputy Commissioner of Sales Tax u/s 52 of the Act for determination of the rate of tax payable on sales of shelving rack and binstak and two other articles. In this reference, we are not concerned with the other two articles but we are concerned only with shelving rack and binstak. Along with the application u/s 52, a copy of the bill dated 30th December, 1964, was attached. It was contended by the assessee before the Deputy Commissioner that shelving rack was meant for use of office and not for personal convenience or for decoration and, therefore, it was not a piece of furniture. The assessee further contended before the Deputy Commissioner that binstak was merely a box specially prepared for the storage of merchandise commodities, with the added facility of convenient removal when desired, and, therefore was not an article of furniture in the popular sense of the term. The Deputy Commissioner did not accept the contention of the assessee regarding shelving rack and binstak and held that they were articles of iron or steel furniture covered by entry 44H of Schedule C to the Act. Against this decision of the Deputy Commissioner, there was an appeal to the Sales Tax Tribunal and the Sales Tax Tribunal dismissed the appeal and confirmed the decision of the Deputy Commissioner regarding shelving rack and binstak. Thereafter, at the instance of the assessee, this reference has been made by the Tribunal.

3. Entry 44H of Schedule C to the Act is as under :

"Iron and steel safes, almirahs and furniture and upholstered furniture."

4. Entry 40A of Schedule C to the Act is as follows :-

"Furniture (other than specified in entry 44H of this Schedule)."

5. There is no definition of the word "furniture" in the Act and, therefore, it would be proper to refer to the dictionary. Webster''s Dictionary, Second Edition, defines furniture to mean articles of convenience or decoration used to furnish a house. So far as the word "furnish" is concerned, the Shorter Oxford English Dictionary defines the word "furnish", inter alia, as follows :-

"To fit up (an apartment, a house) with all that is requisite, including movable furniture, which is now the predominant notion."

6. The Shorter Oxford English Dictionary mentions in the meaning of the word "furniture", inter alia, as follows :-

"Movable articles in a dwelling-honse, place of business, or a public building."

7. Therefore, so far as the dictionary meaning is concerned, all articles of convenience or decoration used for the purpose of furnishing a place of business or an office are articles of furniture. So far as shelving rack is concerned, it is used in an office or an industrial organization for the purpose of keeping dies, papers etc. and, therefore, is an article of convenience, which is used for furnishing a place of business or an office.

8. It is, therefore, an article of furniture, and since it is manufactured from iron and steel, it is an article of steel furniture within the meaning of entry 44H of Schedule C.

9. A sample of a binstak of the smallest size was produced before the Tribunal and was also produced before us. Different samples were also produced before the Tribunal. A pamphlet containing the description of binstak was produced before the Tribunal and also before us. It is difficult to accept the contention of Mr. Kaji, on behalf of the assessee, that a binstak is nothing else but a box. A box is completely closed from all sides and not of the type where one side is open for ease and convenience. Further, binstaks are so manufactured that they can be arranged one over the other with a view to save door space and at the same time to make it convenient for the businessmen to store their materials or articles of merchandise with great ease and convenience. It is, therefore, clear that binstaks are articles of convenience meant for furnishing places of business, furnishing being in the sense of equipping with movable articles. A binstak is also a part of office furniture or a furniture of a place of business and since it is made from steel, it would be steel furniture within entry 44H of Schedule C to the Act. We may mention that the brochure or the pamphlet which has been shown to us describes different articles manufactured by the assessee-company as the distinctive line of "Chandan Steel Furniture"; and it is in this brochure or the pamphlet that both shelving racks and binstaks have been advertised by the assessee-company. As pointed out by Desai, C.J., in Bishambar Dayal Shri Niwas v. Commissioner of Sales Tax [1963] 14 S.T.C. 184.), if the assessee-comapny stocked its goods, viz., shelving racks and binstaks, as furniture and sold them as furniture, it would be a sale of furniture; and more so, if it was bought by the vendee as such. Our conclusion derived independently from the brochure issued by the assessee-company is that shelving racks and binstaks manufactured and sold by the assessee-company are items of steel furniture and that conclusion is fortified by the fact that the assessee-company manufacture, stocks and sells the shelving racks and binstaks as steel furniture.

10. Under these circumstances, we hold that both shelving racks and binstaks are steel furniture within the meaning of entry 44H of Schedule C to the Act. We, therefore, answer the questions referred to us as follows :

Question No. Answer (1) In the affirmative (2) In the affirmative

11. The assessee will pay the costs of this reference to the State of Gujarat.

12. Reference answered accordingly.

