(1987) 02 RAJ CK 0053

In the Rajasthan High Court

Case No : S.T. Revision No. 45 of 1987 (old Ref. No. 124 of 1979)

Commercial Taxes Officer — APPELLANT

Vs

Oriental Agencies — RESPONDENT

Date of Decision : 02-02-1987

Acts Referred:
Rajasthan Sales Tax Act, 1954 — Section 15

Citation : (1988) 68 STC 141

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

Bench : Single Bench

Advocate : G.S. Bapna, for the Appellant; R.C. Ghiya, for the Respondent

Final Decision : Dismissed

Judgement

J.S. Verma, C.J.—This was a reference made by the Tribunal, which is now to be heard as a revision u/s 15 of the Rajasthan Sales Tax Act, 1954 as amended by the Rajasthan Sales Tax (Amendment) Act, 1984.

2. The question of law referred by the Tribunal for decision by this Court is the following:

Whether, in the facts and circumstances of the case, rubber hose pipes are not covered by entry No. 63 of the notification dated 29th May, 1967 which reads as under : "All types of sanitary goods and fittings and all types of pipes and pipe fittings ?

The dealer claimed that the sale of rubber hose pipes during the relevant period was covered by the residuary entry taxable at 6 per cent and not by entry No. 63 of the notification dated 29th May, 1967 providing for a higher rate of tax, which reads as under :

All types of sanitary goods and fittings and all types of pipes and pipe fittings.

3. In respect of the same dealer, for different period of assessment in D. B. C. S. T. Reference No. 24 of 1973 decided on 26th March, 1984 State of Rajasthan Vs.

Oriental Agencies, a Division Bench of this Court while construing an identical entry held that rubber hose pipe is not used for the purpose of fitting and fixing and must, therefore, be governed by the residual entry and not by the expression "all types of pipes and pipe fittings" used in the aforesaid specific entry. Following that decision relating to the same dealer deciding the same question in dealer''s favour, it must be held that the rubber hose pipes are not covered by entry No. 63 of the notification dated 29th May, 1967, and they must fall within the residual entry. Accordingly, the Tribunal was justified in taking this view.

4. Consequently, the revision of the department is dismissed. No order as to costs.

