(1989) 02 P&H CK 0100

In the Punjab And Haryana At Chandigarh

Case No : Income-tax Reference No. 53 of 1983

Commissioner of Income Tax APPELLANT

Vs

Sriyansh Knitters RESPONDENT

Date of Decision : 02-02-1989

Acts Referred:
Income Tax Act, 1961 — Section 33(1)

Citation : (1989) 80 CTR 235 : (1989) 178 ITR 466 : (1989) 45 TAXMAN 368

Hon'ble Judges : S.S. Sodhi, J;Gokal Chand Mital, J

Bench : Division Bench

Advocate : Ashok Bhan and Ajay Mittal, for the Appellant; D.K. Gupta, for the Respondent

Judgement

S.S. Sodhi, J.—The matter here pertains to development rebate, the controversy being whether the entitlement of the assessee was to 15% or 25% of such rebate.

2. The assessee had installed new machinery worth Rs. 7,80,645 during the assessment year 1974-75 and thereafter claimed development rebate in respect of it. The Tribunal allowed 25% development rebate and this is what led the following question to be referred to this court for its opinion :

"Whether, on the facts and in the circumstances of the case, the Tribunal erred in holding that taking into consideration the provisions of Section 33(1)(b)(B)(i)(b) read with item 32 of the Fifth Schedule to the Income Tax Act, 1961, the assessee was entitled to development rebate at the rate of 25% for the year under appeal ?"

3. Admittedly, the machinery in question has been used by the assessee for manufacture of woollen hosiery for export. The question that arises is whether item 32 of the Fifth Schedule covers the manufacture of woollen hosiery too. This entry reads as under :

"(32) Textiles (including those dyed, printed or otherwise processed) made wholly or mainly of cotton, including cotton yarn, hosiery and rope."

4. As is well known, "hosiery" is a word which, in its compass, covers both cotton and woollen garments. This being so, when the entry specifi- cally mentions "made wholly or mainly of cotton", it must clearly be construed to exclude woollen hosiery. The argument of learned counsel for the assessee, however, was that as the word "cotton" does not occur immediately before the word "hosiery", it must be read in connection with "yarn" only and not with the words "hosiery" and "rope" that follow it. Such an interpretation, though plausible on the face of it, cannot stand scrutiny when seen in the light of the next entry, i.e., 33, where specific mention is made of "jute rope". If the word "rope" in entry 32 were to be read without any qualification, the words "jute rope" in entry 33 would clearly be redundant. The Legislature cannot be assumed to have used words without meaning or purpose. On a plain reading and interpretation of entry 32, therefore, it must be read and understood to cover textiles made wholly or mainly of cotton. Woollen hosiery would thus not fall under this entry. This being so, 15% development rebate is all that the assessee can be held entitled to in respect of the machinery in question, under the residuary Clause (iv)(b) of Section 33(1)(b)(B) of the Act.

5. This reference is accordingly answered in the affirmative, in favour of the Revenue and against the assessee. There will, however, be no order as to costs.