(1971) 07 MP CK 0024

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No. 297 of 1969

Commissioner of Sales Tax — APPELLANT

Vs

Bharat Kala Bhandar — RESPONDENT

Date of Decision : 01-07-1971

Acts Referred:

Citation : (1978) ILR (MP) 298 : (1971) JLJ 823 : (1971) MPLJ 764 : (1971) 28 STC 387

Hon'ble Judges : Bishambhar Dayal, C.J;S.P. Bahrgava, J

Bench : Division Bench

Advocate : M.V. Tamaskar, for the Appellant; Y.S. Dharmadhikari, for the Respondent

Judgement

Bishambhar Dayal, C.J.

The judgment in this Miscellaneous Civil Case will also govern the disposal of Miscellaneous Civil Case No. 298 of 1969 : (The Commissioner of Sales Tax, Madhya Pradesh v. Punjab Ginning and Pressing Factory, Khandwa). Both these are references raising the same point. The question referred is: "Whether hessian is covered by the term ''cloth'' used in item No. 6 of Schedule I to the State Act and, therefore, exempt from tax ?

This court had in a Division Bench case, Commissioner of Sales Tax Vs. New Bhopal Textile Limited, held that the Word "cloth" was wide enough to include hessian cloth, and hessian cloth would therefore be exempt. The State Government have since passed the M.P. General Sales Tax (Amendment and Validation) Act 1971, [1971] 27 S.T.C. Statutes 93. Section 9 of this Act is as follows :--

In Schedule I to the Principal Act, in entry 6, for the words ''but excluding silk fabrics and articles made thereof, the words ''but excluding silk fabrics, articles made thereof and hessian cloth'' shall be substituted.

This section has been given retrospective effect by the provisions of Section 10 of the Amendment Act which is as follows :--

(1) The amendments made by.... Section 9 in so far as it relates to hessian cloth shall be deemed to have formed part of the Principal Act, from the commencement thereof.

In view of these amended provisions the decision of this Court has become obsolete and the present cases must now be decided in view of the amended law.

By the aforesaid amendment hessian cloth has been clearly exempted from entry No. 6 of Schedule I and consequently is not exempt from sales tax. Therefore, our answer to the question referred is that "hessian is not covered by the term ''cloth'' used in item No. 6 of Schedule I to the State Act and, therefore, is not exempt from sales tax." Parties will bear their own costs in both these references.

