**(1981) 07 MP CK 0004**

**In the Madhya Pradesh High Court**

**Case No :** M.C.C. No. 94 of 1980

Commissioner of Sales Tax APPELLANT

Vs

IISCO Stanton Pipe and Foundry Co. Ltd. RESPONDENT

**Date of Decision :** 03-07-1981

**Acts Referred:**
Madhya Pradesh General Sales Tax Act, 1958 — Entry 56

**Citation :** (1982) 50 STC 207

**Hon'ble Judges :** K.N. Shukla, J;K.K. Dube, J

**Bench :** Division Bench

**Advocate :** Kulshreshtha, for the Appellant; L.P. Bhargava, for the Respondent

## Judgement

K.K. Dube, J.—This is a reference u/s 44(1) of the M.P. General Sales Tax Act, 1958, referring to us. the following question of law for our decision :

Whether, under the facts and circumstances of the case, cast-iron pipes are taxable under entry 56 of Part II of Schedule II appended to the M.P. General Sales Tax Act, 1958 ?

2. The assessee here is a manufacturer of pipes. The question that immediately arises for consideration is whether the pipes manufactured by the assessee ought to be taxed at the rate stated in the general entry or it would be covered by special entry which reads as under :

Entry 56. All types of sanitary goods and ... fittings and all types of pipes and pipe fittings.

It would appear that the entry is in very wide terms and whether it is permissible to be bifurcated into items of taxable goods comprised of sanitary goods and fittings and the other of all types of pipes and pipe fittings or it merely pertains to one class of goods, namely, sanitary goods and sanitary fittings and such pipes and pipe fittings as are used in connection with sanitary fittings. The Tribunal construed the entry in a manner that the pipes alluded to in the entry mean pipes used for sanitary purposes and not for other uses. This, it is stated, is on an examination of the entries which indicate that the entries are so arranged that each entry contains relatable goods and is not composed of different categories of goods or different species of goods. The rule of construction applied seems to be that having regard to the context, the words must be construed according to the company they keep. The department seems to be aggrieved by such construction placed on the entry and therefore referred the above question.

3. As far as we are concerned, we find that the matter is no longer res Integra. In M.C.C. No. 327 of 1976 ( Commissioner of Sales Tax Vs. Truel Tubes, decided on 7th February, 1980, this Bench while construing entry 56, held that conduit pipes fall under entry 30 and M. S. pipes fall under the residuary entry of Schedule II to the Act. It follows from the above judgment that they do not fall under entry 56. We are bound by the Division Bench decision of this Court and following the above decision, we would answer the question in favour of the assessee and against the department and say that the cast-iron pipes, which are not used for sanitary fittings, would not be taxable under entry 56 of Part II of Schedule II appended to the M.P. General Sales Tax Act, 1958. The reference is answered accordingly.

4. There shall be no order as to costs.

 