(1984) 03 AHC CK 0017

In the Allahabad High Court

Case No : Sales Tax Revision No. 147 of 1983

Commissioner of Sales Tax APPELLANT

Vs

Kanpur Plastic Pack (P.) Ltd. RESPONDENT

Date of Decision : 21-03-1984

Acts Referred:
Uttar Pradesh Sales Tax Act, 1948 — Section 11(1)

Citation : (1984) 57 STC 188

Hon'ble Judges : N.D. Ojha, J

Bench : Single Bench

Advocate : Bharatji Agrawal, for the Respondent

Final Decision : Dismissed

Judgement

N.D. Ojha, J.—This revision u/s 11(1) of the U. P. Sales Tax Act (hereinafter referred to as the Act) has been filed by the Commissioner of Sales Tax against the order dated 14th January, 1983, passed by the Sales Tax Tribunal, U. P. (Full Bench), Allahabad, in Appeal No. 13 of 1982 filed by the opposite party against an order of the Commissioner of Sales Tax passed u/s 36 of the Act.

2. The opposite party, inter alia, manufactures and sells plain HDPE fabrics.

3. The question, which arose for consideration before the Commissioner and the Tribunal, was whether these fabrics were exempt from sales tax or not. Reliance on behalf of the opposite party was placed on Notification No. ST-4064 dated 25th November, 1958, containing items exempted from sales tax. The relevant entry, on which reliance was placed on behalf of the opposite party, was 3(b), which runs as follows :

Rayon or artificial silk fabrics, including stapple fibre fabrics of all varieties.

4. According to the opposite party, plain HDPE fabrics came within the term "artificial silk fabrics". The" plea raised by the opposite party did not find favour with the Commissioner of Sales Tax. However, on appeal, the Tribunal has

accepted this plea and has held that the opposite party was not liable to be taxed on the turnover of HDPE (plain woven fabrics) inasmuch as it came within the category of artificial silk which was exempt under the notification mentioned above.

5. It has been urged by the Standing Counsel for the applicant that the Tribunal has committed an error of law in holding that plain HDPE fabrics fell within the term "artificial silk".

6. Having heard the counsel for the parties, I find it difficult to agree with the submission made by the Standing Counsel.

7. The only ground, on which the Commissioner of Sales Tax had held that plain HDPE fabrics did not come under the term "artificial silk", was that artificial silk is made of yarn manufactured from cellulosic and non-cellulosic materials, whereas plain HDPE woven fabric was not made of any kind of yarn but was manufactured from tapes. The Commissioner, however, did not record any finding that the tapes in their turn were not manufactured from cellulosic and non-cellulosic materials. The only basis of distinction, which, therefore, survived, was that plain HDPE fabrics were not made of yarn but were made of tapes. The Tribunal, relying on the decision of the Supreme Court in Indo International Industries v. Commissioner of Sales Tax, U. P. 1981 SCC 130, wherein it was held that in interpreting items in statutes like the Excise Acts or Sales Tax Acts, whose primary object is to raise revenue and for which purpose they classify diverse products, articles and substances, resort should be had not to the scientific and technical meaning of the terms or expressions used but to their popular meaning, that is to say, the meaning attached to them by those dealing in them, held that the basic question, which fell for consideration, was as to whether plain HDPE fabrics were known as artificial silk or not according to the popular meaning given to that expression by those dealing in the said fabrics. On the basis of various affidavits and certificates produced on behalf of the opposite party, the Tribunal has recorded a finding of fact that the meaning attached to the plain HDPE fabrics by those who were dealing in the said fabrics was that it was artificial silk. On this finding, plain HDPE fabrics clearly fell within the notification dated 25th November, 1958, mentioned above and were rightly held by the Tribunal to be exempt from tax.

8. In the result, I find no merit in this revision. It is accordingly dismissed. There shall be no order as to costs.

