
(1963) 08 MP CK 0008

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No. 54 of 1963

Commissioner of Sales Tax

APPELLANT

Vs

Mahajan Bros.

RESPONDENT

Date of Decision : 08-08-1963

Acts Referred:

Madhya Pradesh General Sales Tax Act, 1958 — Section 44(1)

Citation : (1963) J LJ 725 : (1963) MPLJ 761 : (1963) 14 STC 808

Hon'ble Judges : P.V. Dixit, C.J.; Shiv Dayal, J

Bench : Division Bench

Advocate : H.L. Khaskalam, for the Appellant; Y.S. Dharmadhikari and M.V. Tamasker, for the Respondent

Final Decision : Dismissed

Judgement

P.V. Dixit, C.J.

In this reference u/s 44(1) of the Madhya Pradesh General Sales Tax Act, 1958, (hereinafter referred to as the Act) at the instance of the Commissioner of Sales Tax, the question which we have been asked to answer is:-

Whether hosiery goods come under item No. 2 of Part IV of Schedule II to the Act till the amendment of this item on 19th February, 1960, under Government Notification No. 136-2254-V-SR, dated 14th January, 1960 ?

The facts are that M/s. Mahajan Brothers of Indore are dealers in hosiery. In the assessment of sales tax for the period from 1st April, 1959, to 31st March, 1960 they were assessed to sales tax on hosiery sold by them at the rate of four per cent., according to entry No. 1 of Part VI of Schedule II to the Act. The assessee contended that hosiery goods were liable to tax at the rate of one per cent., under entry No. 2 of Part IV of Schedule II as they were "ready-made garments". This contention was overruled by the Assistant Sales Tax Officer as well as by the Appellate Assistant Commissioner of Sales Tax in the appeal, which the assessee had preferred against the assessment order. The assessee then preferred an

appeal before the Board of Revenue. The Board took the view that hosiery goods were "ready-made garments" and as such the tax payable on them was at the rate of one per cent., under entry No. 2 of Part IV of Schedule II. The reasoning of the Board was that "garments" meant "clothes" and "clothes" meant "wearing apparel"; that "hosiery goods" were also "wearing apparel"; and that as they were made in "standard shapes and sizes" they were "ready-made garments". On this view, the assessee's appeal was allowed by the Board of Revenue and the case was remitted to the assessing authority for reassessment of hosiery goods taking them as goods falling under entry No. 2 of Part IV of the Schedule.

The question raised is as to whether "hosiery goods" fall within the expression "ready-made garments" as used in entry No. 2 of Part IV of the Schedule, which is as follows:-

Ready-made garments, excluding garments of pure silk cloth.

Entry No. 1 of Part VI of the Schedule, which the Assistant Sales Tax Officer and the Appellate Assistant Commissioner held to be applicable in the case, runs as under:-

All other goods not included in Schedule I or any other part of this Schedule.

"Hosiery goods" have not been specified either in Schedule I or Schedule II to the Act and it is not disputed that if they are not "readymade garments" for the purposes of entry No. 2 of Part IV, then the sales tax payable on them would be according to entry No. 1 of Part VI of the Schedule.

Now, the Act does not give any definition of "ready-made garments" or of "hosiery goods". These words must, therefore, be understood according to the common commercial parlance and in their popular meaning as understood by people who deal in or purchase ready-made garments or hosiery. As the Supreme Court has in *Ramavatar Budhaiprasad Etc. Vs. Assistant Sales Tax Officer, Akola*, while considering the meaning of the term "vegetables" as used in the Central Provinces and Berar Sales Tax Act, 1947, observed that the terms and expressions used in taxing statutes must be construed not in any technical sense but as understood in common parlance and that if a word or term is one of everyday use, it must be construed in its popular sense, meaning "that sense which people conversant with the subject-matter with which the statute is dealing would attribute to it." It would not, therefore, be legitimate to put on the terms "readymade garments" and "hosiery" a construction giving them a special meaning. The two expressions must receive a construction which is consistent with their plain and natural meaning in the English language.

The meaning of the word "garment", as given in Webster's New Twentieth Century Dictionary, is "any article of clothing; clothes ; costume ; covering." The meaning given in the Oxford Dictionary is "any article of dress; in singular, especially an outer vestment; in plural, clothes, outward and visible covering of anything." The dictionary meaning of the word "hosiery" is "knitted or woven

underclothing; knitted goods ; socks and stockings." In common language, therefore, "garment" means an article of dress or clothes, that is to say, clothes or articles of dress which attire or array or adorn a person. It is, therefore, an outer vestment for dressing up a person, "Hosiery goods" are no doubt meant for wearing ; but they are knitted goods. They are not displayed when worn. In English language there is a clear distinction between "garment" and "hosiery", the latter term being confined only to socks and stockings. Again, a garment is made of cloth, whereas hosiery goods are made not of cloth but are knitted out of woollen or silken or cotton or linen threads. It is important to note that entry No, 2 of Part IV speaks of "ready-made garments" excluding garments of pure silk cloth. Thus this entry makes a distinction between "garments which are ready-made" and "garments which can be made to order", and garments which are made of pure silk cloth and garments which are made of other cloth. The fallacy in the reasoning of the Board of Revenue that "garments" mean "clothes" and "clothes" mean "wearing apparels" and "hosiery goods" are also "wearing apparels" lies in assuming that hosiery goods are made of cloth and they are available ready-made as well as they can be made to order. It is well known that hosiery goods are available in standard sizes and when one needs them, one does not place order for them with the hosier. One just goes to the shop of the hosier and buys socks or stockings of the requisite size. Garments are available ready-made and can also be made to order by purchasing the material from the draper and taking it to the tailor for stitching. Would a person needing a shirt or a jacket or a trouser or any article of outer dress be directed to the shop of a hosier who deals in knitted goods ? The answer is obviously "no". He would not be directed even to the shop of a draper or a tailor but would be directed to the shop of a dealer who sells shirts, trousers, jackets and articles of outer dress in standard shapes and sizes. In our judgment, the expression "ready-made garments" as used in entry No. 2 of Part IV of the Schedule cannot be considered as including hosiery, that is, knitted goods.

Shri Dharmadhikari, learned counsel appearing for the assessee, referred us to the decision of the Rajasthan High Court in Pareek Hosiery Products v. Deputy Commissioner of Sales Tax [1962] 13 S.T.C. 722, in support of his contention that the term "ready-made garments" was wide enough to include "hosiery goods". That was a case in which the Rajasthan High Court considered the scope of a notification under the Rajasthan Sales Tax Act, 1954, exempting from the levy of sales tax "the sale of any garment whether prepared within or imported from outside Rajasthan the value of which does not exceed Rs. 4 in single piece." It was held by the learned Judges of the Rajasthan High Court that hosiery goods, such as cotton vests, underwears, mufflers and "topas", were garments for the purposes of the notification. After noticing the dictionary meaning of the word "garment", the learned Judges of the Rajasthan High Court observed :-

In its primary meaning "garment" means any article of clothing irrespective of the fact whether it is visible to another or not. It is the use of covering human body which gives content to the word. Besides articles such as muffler or caps

normally constitute an outer covering. under the notification there is no qualification, except its price, mentioned to distinguish garments before they are exempted from tax. Rather the word "any" preceding the word "garment" has the tendency of widening its amplitude. We see no reason to import any qualification either.

With all due deference to the learned Judges, we do not find ourselves in agreement with their statement that the primary meaning of "garment" is any article of clothing, irrespective of whether "it is visible to another or not". This statement is not in consonance with the plain and natural meaning of the word "garment" in the English language. In that language, "garment", an "article of dress", a "wearing apparel", an "attire", "clothes"-all connote an article of clothing which is displayed. One is not dressed up or attired when one merely wears a pair of socks or an underwear or a waist. A person is said to be dressed up when he fully wears the outward and visible clothing which he is accustomed to wear for meeting people and moving in society. It is also noteworthy that the wide meaning given to the word "garment", as used in the exemption notification in the Rajasthan case, was because of the use of the word "any" preceding the word "garment". The Rajasthan decision is thus distinguishable on the wording of the notification considered there. If the learned Judges of the Rajasthan High Court intended to lay down as a general proposition that "garment" is meaning any article of dress made of cloth including knitted goods, then we must express our respectful dissent from their view.

Our attention was also drawn to the fact that by an amendment made on 19th February, 1960, entry No. 2 of Part IV of the Schedule was modified so as to exclude expressly "ready-made hosiery or knitted garments". It was suggested on behalf of the assessee that this amendment indicated that "ready-made garments" included hosiery or knitted goods. We are unable to accept this contention. This amendment, which came into force after the assessment period in the present case, has clearly no applicability here. The express exclusion made by the amendment of "ready-made hosiery or knitted garments" from "readymade garments" cannot in any way affect or widen the plain and natural meaning of the term "ready-made garment" so as to include hosiery goods. The amendment is only by way of abundant caution so as to place beyond doubt or controversy that ready-made garments do not include hosiery goods.

Learned counsel for the assessee stated before us that the assessee was in fact dealers in ready-made garments and not in hosiery goods. This contention cannot be entertained in this reference which has been made on the finding that the assessee is a dealer in hosiery goods.

For all these reasons, our answer to the question propounded is that hosiery goods are not ready-made garments falling under entry No. 2 of Part IV of Schedule II to the Act, and that they are liable to sales tax at the rate of four per cent., according to entry No. 1 of Part VI of the Schedule. We make no order as to costs of this reference.