(1980) 02 MP CK 0001

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No. 327 of 1976

Commissioner of Sales Tax APPELLANT

Vs

Truel Tubes RESPONDENT

Date of Decision : 07-02-1980

Acts Referred:
Madhya Pradesh General Sales Tax Act, 1958 — Entry 30, Entry 56

Citation : (1980) 46 STC 473

Hon'ble Judges : R.K. Vijayvargiya, J;G.G. Sohani, J

Bench : Division Bench

Advocate : The Government Advocate, for the Appellant; G.M. Chaphekar, for the Respondent

Judgement

G.G. Sohani, J.—This is a reference u/s 44 of the M. P. General Sales Tax Act, 1958, hereinafter called the Act, at the instance of the Commissioner of Sales Tax. The following questions of law are referred to this Court for its opinion:

(1) Whether, on the facts and circumstances of the case, the turnover arising out of the sale of conduit pipes manufactured and sold by the assessee should be taxed under entry 56 or under entry 30 of Part II of Schedule II of the M. P. General Sales Tax Act, 1958 ?

(2) Whether, on the facts and circumstances of the case, the turnover arising out of the sale of mild steel pipes manufactured and sold by the assessee should be assessed to tax according to entry 56 of Part II or entry 1 of Part VI of Schedule II to the M. P. General Sales Tax Act, 1958 ?

2. The material facts giving rise to this reference briefly are as follows: In the course of assessment proceedings, the assessee contended that since the conduit pipes manufactured and sold by the assessee were exclusively used as S-46-60 casing in electrical fittings, the turnover arising from the sale of that commodity should be assessed to tax under entry No. 30 of Part II of Schedule II to the Act. The assessing authority, however, treated the conduit pipes

manufactured and sold by the assessee as commodities falling within the provisions of entry No. 56 of Part II of Schedule II to the Act, and the turnover arising therefrom was assessed to tax accordingly. With regard to the turnover arising from the sale of mild steel pipes (M. S. pipes) manufactured and sold by the assessee, the contention of the assessee was that M. S. pipes should be assessed to tax under the residuary entry and not under entry No. 56 of Part II of Schedule II to the Act. The assessing authority, however, rejected that contention. The first appeal preferred by the assessee was rejected, but in second appeal, the Board upheld the contentions advanced on behalf of the assessee. Hence at the instance of the Commissioner, the Board has referred the aforesaid questions of law to this Court for its opinion.

3. The Board has found that the conduit pipes manufactured and sold by the assessee are for the purpose of casing of electrical wiring and that the mild steel pipes manufactured by. the assessee are ordinarily for the purpose of making furniture or carriers of automobiles. In view of these findings, the question for consideration is whether the conduit pipes are exigible under entry No. 56 or entry No. 30 of the Second Schedule to the Act, and whether M. S. pipes are exigible under entry No. 56 or the residuary entry of the Second Schedule to the Act.

4. The relevant entries Nos. 30 and 56 are as follows :

30. All kinds of electrical goods, including torch, cells, 7 per cent, casing, lighting bulbs, electrical earthenware, porcelain and all other accessories but excluding articles specified in entry 30-A of this part.

56. All types of sanitary goods and fittings and all types 7 per cent. of pipes and pipe fittings.

5. Now, the words "all types of pipes and pipe fittings" in entry No. 56 are undoubtedly capable of a wide meaning so as to cover all types of pipes, irrespective of the question of use for which they are designed. It must, however, be noted that the category of goods in entry No. 56 is not described as "all types of pipes and pipe fittings", but as "all types of sanitary goods and fittings and all types of pipes and pipe fittings". The words "all types of pipes and pipe fittings" must, therefore, receive colour, as held by the Supreme Court in Deputy Commissioner of Sales Tax (Law), Board of Revenue (Taxes), Ernakulam Vs. G.S. Pai and Co., , from the words associated with them. In Burmah Shell Co. Ltd. v. State of Madras [1968] 21 S.T.C. 227 (SC) the Madras High Court considered the scope of the entry "lubricating oils, all kinds of mineral oils (not otherwise provided for in this Act), quenching oils and greases". The High Court held that having regard to the association of words, the words "all kinds of mineral oils" in the entry bear only a limited meaning, namely, mineral oils which are lubricants. In our opinion, therefore, the words "all types of pipes and pipe fittings" in entry No. 56 must be construed as embracing pipes used for sanitary purposes. These words do not include conduit pipes, which are used for the purpose of casing of

electrical wiring and are covered by entry No. 30. Similarly these words cannot be construed to include mild steel pipes used for the purpose of making furniture or carriers of automobiles.

6. For all these reasons, our answers to the questions referred to us are that conduit pipes fall under entry No. 30 and M. S. pipes fall under the residuary entry of Schedule II to the Act. Parties shall bear their own costs of this reference.

