(1990) 11 RAJ CK 0028

In the Rajasthan High Court

Case No : Sales Tax Revision No. 5 of 1988

C.T.O. APPELLANT

Vs

Modern Suitings Ltd. RESPONDENT

Date of Decision : 12-11-1990

Acts Referred:
Rajasthan Sales Tax Act, 1954 — Section 5CC

Citation : (1991) 81 STC 277

Hon'ble Judges : Milap Chand Jain, J

Bench : Single Bench

Advocate : G.S. Bapna, for the Appellant; V.K. Singhal, for the Respondent

Final Decision : Dismissed

Judgement

M.C. Jain, J.—This revision is directed against the order of the Sales Tax Tribunal dated 5th January, 1987, whereby the orders of the Deputy Commissioner (Appeals) dated 23rd July, 1985 and of the Commercial Taxes Officer dated 30th May, 1983, were set aside and the appeal of the respondent was allowed. The Commercial Taxes Officer as well as the Deputy Commissioner (Appeals) took the view that the assessee does not qualify for the benefits of Section 5CC of the Rajasthan Sales Tax Act, 1954 and the assessee''s application for obtaining form S.T. 17A for the benefits of Section 5CC was rejected. The respondent''s case was that the respondent purchases yarn, dyes it and gets the work of weaving done on job basis and further sizes the cloth and also performs other processes in relation to the end-product, i.e., dyed and printed cloth. The department''s contention was that the essential function of weaving is not performed by the respondent and so there is no manufacture of goods by the respondent and as such no benefit can be claimed by the respondent u/s 5CC.

2. The controversy narrows down to this that as to whether all the processes for the manufacture of end-product are required to be completed by the assessee for claiming benefit u/s 5CC. The Tribunal in para 5 has stated in connection with the different processes undertaken by the assessee as under :

"When we examine the instant case with reference to the above conditions, it is clear that the assessee-appellant has installed new machinery worth over Rs. 1 crore. Further it is not established on the site of the existing factory or workshop manufacturing the same goods ; neither the factory is an addition to or extension to the existing factory or workshop in manufacturing the same goods. It is also not the case of both the parties that the goods manufactured in this factory are not sold within the State or in the course of inter-State trade or commerce or in the course of export out of the territory of India. The only point which is for consideration is whether such a factory can get the benefit of concessional rate of tax on the purchase of raw materials u/s 5CC of the Act. It has been contended that in weaving only Rs. 3 per metre and on other processes the assessee-appellant is spending Rs. 13 per metre. Further in this age of competition, it is not necessary that all the processes of manufacture must be done under the same roof and by the same entrepreneur manufacturing the goods."

3. The above factual position is not in dispute. It would appear that the process of weaving performed by others on job basis involves only a sum of Rs. 3 per metre whereas the other processes performed by the assessee is valued at Rs. 13 per metre. It would appear that the major processes are being performed by the assessee in the manufacture of dyed and printed cloth.

4. Shri G.S. Bapna, learned counsel for the petitioner, submitted that the words used in Section 5CC are "on sale to or purchase by him of any raw material for the manufacture of goods for sale". The raw material is required to be purchased according to Shri Bapna, for the manufacture of goods. So the entire manufacturing process for goods is required to be performed by the assessee claiming benefit of concessional rate u/s 5CC. The relevant portion of Section 5CC reads as under :

"5CC. Remission of tax on raw material for specified period.--(1) Notwithstanding anything contained in Section 5 or 5A, but subject to such restrictions and conditions, as may be prescribed, a registered dealer who has commissioned or who commissions any notified industry within the State on or after the 1st day of March, 1977, but before the 31st day of March, 1984, shall be liable to pay tax at the rate of 1 per cent on sale to or purchase by him of any raw material for the manufacture of goods for sale within the State or in the course of inter-State trade or commerce or in the course of export out of the territory of India."

5. If we give the plain and simple meaning to the words on the basis of which construction is required to be placed as contended by Shri Bapna, it would appear that the raw material is required to be purchased for the manufacture of goods for sale. It cannot be denied that the raw material in the instant case has been purchased for the manufacture of goods. The provision nowhere lays down that the entire process of manufacture of goods is required to be performed by the unit claiming benefit u/s 5CC. I agree with the opinion expressed by the Tribunal that there can be specialisation for particular processes by some units

and getting that particular process by specialised units would be more economic. Taking the aid of such units which are engaged in particular jobs, would not in any way take away the right of the assessee who can claim benefit u/s 5CC. If the Legislature had intended that all processes culminating in the manufacture of goods are to be performed by the assessee himself, the Legislature would have so expressed in the provision itself. The Legislature felt contented with the provision that the raw material should be purchased for the manufacture of goods for sale. It cannot be said that the raw material is not purchased for the manufacture of goods for sale within the State, etc. In my opinion, therefore, this contention of the department that Section 5CC envisages that the entire process of manufacture should be completed by the assessee himself is devoid of any force. In this view of the matter the view taken by the Tribunal calls for no interference.

6. In the result, this revision petition has no force so it is hereby dismissed.