
(1980) 01 P&H CK 0027
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 39 of 1969

Electronics Limited

APPELLANT

Vs

Superintendent of Central Excise, Range III and Others

RESPONDENT

Date of Decision : 11-01-1980

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1980) CENCUS 175 : (1980) 6 ELT 350

Hon'ble Judges : S.P. Goyal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.P. Goyal, J.—The short question which needs determination in this petition under Articles 226/227 of the Constitution of India is as to whether the trolley type stands manufactured by the petitioner-company are steel furniture within the meaning of entry 40 of the First Schedule to the Central Excises and Salt Act, 1944 (hereinafter referred to as the Act).

2. The petitioner, M/s. Electronics Limited, a public limited company, is engaged in the manufacture of Room Air-coolers, marketed under the trade mark "Gulmarg" and with these coolers a trolley type stand made of steel is also provided as an accessory. Admittedly, no excise duty, on this item was leviable prior to March 1, 1968. By Finance Act No. 19 of 1968, entry No. 40 was introduced in Schedule 1 to the Act which reads as under :-

"Steel furniture made partly or wholly of steel in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power, whether in assembled or unassembled condition—"

3. After the introduction of that entry, which was made effective with effect from March 1, 1968, the Central Excise Department advised the petitioner company that the said trollies were liable to excise duty. Consequently, the petitioner cleared two consignments of trollies on April 15 and 16, 1968, after paying the

excise duty thereon in the amount of Rs. 8,250/- However, the petitioner-company on 17th April made a representation to the "Collector, Central Excise, New Delhi, respondent No. 3, that the trollies being part and parcel of the air-coolers were not steel furniture within the meaning of the said entry and, therefore, not liable to excise duty. Excise department agreed with the stand of the petitioner-company and Respondent No. 2, the Assistant Collector, Central Excise, Faridabad, informed them accordingly. Thereafter, on July 9, 1968, the petitioner-company received a communication from the Inspector, Central Excise demanding duty on the trollies manufactured from March 1 to July 9, 1968. The representation made against this demand did not find favour with the Central Board of Revenue or the Government of India as is evident from the reply Annexure "K" dated December 4, 1968, received from the Ministry of Finance which necessitated the filing of the present petition.

4. Although several grounds were urged in the petition to challenge the demand of the excise duty but at the time of arguments, the only grounds pressed into service was that the said trollies being only an accessory to the Room Air-coolers would not be steel furniture within the meaning of the said entry No. 40. It is argued that the word "steel furniture" in entry No. 40 of Schedule 1 has to be interpreted according to its popular sense and in the popular sense the trolley in dispute would never be taken as an item of furniture. Reliance for this proposition was placed on *Porritts & Spencer (Asia) Ltd. v. State of Haryana* (1278) 42 S.T.C. 433 (S.C.). There can be no quarre with this proposition of law but the determining factor in the present case would be as to what is understood by the word "furniture".

5. The word "furniture" is not defined in the Act and according to Webster's dictionary it means the articles of convenience or decoration used to furnish a house, apartment, place of business or other accommodation etc. especially movable articles such as chairs, tables, beds, cabinets, desks, stoves etc. In *Corpus Juris Secundum*, Volume 37, at page 1412, the word "furniture" is defined as under :-

"A comprehensive term of very broad meaning and general application whose meaning changes so as to take the colour of, or be in accord with, the subject to which it is applied. It has been variously defined as meaning any thing which furnishes or equips; a supply of necessary, convenient or ornamental articles, for any business or residence, or with which a residence is supplied, equipment, outfit, supplies, that which fits or equips for use or action, that which fits or supplies a house for use or which furnishes or is added to the interior of a house for use or convenience ; that with which anything is fitted, out, furnished, or supplied, that with which anything is furnished or supplied for use, those movables required for use or ornament in a dwelling, a place of business or of assembly ; those readily movable articles which would be servicable generally as household furniture without any special reference to a particular building. It is not confined in its meaning to such things as are necessities to a family, but

embraces about everything with which a house or anything else is or can be furnished. The term ordinarily relates to movable chattel ; personal chattels in the use of a family and applies to all personal chattels which may contribute to the use or convenience of the house holder or the ornament "of the house". "Furniture" is not generally included by the term "fittings" "

6. It is, therefore, evident that the word "furniture" means an equipment with which the house or a business premises is equipped for a certain use or facility. If this test is applied to the trolley in dispute, it would certainly be an item of furniture because it is placed in a house for better utility of the aircooler. The fact that it is provided by the petitioner-company as an accessory to the air-cooler would not make it its essential component because admittedly for the working of the air-cooler, it is not a necessary for a person to purchase a trolley because the air-cooler can be fitted either in a window or place on a wooden stool in any room.

Mr. Bhagirath Dass, learned counsel for the petitioner for his contention that trollies would not be covered by the word, "steel furniture" relied on *Jiwan Singh and Anr. v. The Senior Superintendent of Central Excise and Anr.* 1971 P.L.R. 1003 and *Imperial Surgico Industries, Lucknow*, 23 Sales Tax Cases 201. Both these decisions are distinguishable on facts and have no bearing on the present case.

In *Jiwan Singh's* case (*supra*) the items in dispute were the seats which were fitted in a vehicle meant for carrying passengers and it was held that the seats so provided do not amount to furniture but form a part and parcel of the vehicle itself and are more in the nature of fixtures than furniture. In *Imperial Surgico Industries Lucknow's* case (*supra*), the items in dispute were operation tables, beds including flower beds, bed-side lockers, dressing carriages, instrument tables and self-propelling chairs meant to be used as hospital equipment. As there was no material placed on the record indicating that by reason of the description, design and equipment of the articles, they were liable to be described as furniture, the plea of the State that the said items were taxable as furniture was negatived. Therefore, none of the two cases is of any help to the petitioner and the stand taken by it that the trolley being an accessory to the air-cooler would not be covered by the word, "steel furniture" has to be negatived.

7. In view of the above discussion, this petition fails and is hereby dismissed but with no order as to costs.