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In the Andhra Pradesh High Court

Case No : T.R.C. No. 77 of 1982

Godrej Soaps Limited APPELLANT

Vs

State of Andhra Pradesh RESPONDENT

Date of Decision : 31-12-1982

Acts Referred:

Citation : (1983) 53 STC 376

Hon'ble Judges : K. Madhava Reddy, J;A. Gangadhara Rao, J

Bench : Division Bench

Advocate : P. Venkatarama Reddy, for the Appellant; The Government Pleader for Commercial Taxes, for the Respondent

Judgement

Gangadhara Rao, J.—The question for our consideration in this case is, whether hair-dye is a cosmetic or toilet preparation, falling under any of the items mentioned in entry 36 of the First Schedule to the Andhra Pradesh General Sales Tax Act, 1957 (hereinafter referred to as "the Act"). If it so falls, then it will be taxable at 8 per cent on the first sale. If it does not, then it will be taxable as general goods at 4 per cent at every point of sale. The Sales Tax Appellate Tribunal held that hair-dye is a hair lotion which is one of the items mentioned in entry 36.

2. The petitioners are manufacturers and dealers in soaps, chemicals, cosmetics, and cattle-feed marketed under the brand name of "Godrej Soaps Limited". They also manufacture hair-dye.

3. In this revision it was submitted by the learned counsel for the petitioners that hair-dye is not a hair lotion, therefore, it cannot be taxed under entry 36 of the First Schedule to the Act. On the other hand, it was submitted by the learned Government Pleader that the hair-dye is a hair lotion, and therefore, it could be taxed under that entry.

4. Entry 36 of the First Schedule to the Act reads as follows :

"36. Cosmetics and toilet At the point of first 8 paise in preparations, namely, sale in the state. the rupee." face powders, talcum powders, hair tonics, hair oils, hair lotions, face creams and snows, pomades, depilatories, tooth powers, tooth paste and tooth brushes.

It is agreed by the learned counsel for both the parties that if at all hair-dye must come under the item "hair lotion" but not under any other item mentioned in entry 36.

5. The expression "cosmetics and toilet preparations" has not been defined in the Act. Entry 36 names certain items as cosmetics and toilet preparations. It means that the entry is an exhaustive enumeration of the items mentioned therein - see State of Tamil Nadu Vs. Pyare Lal Malhotra and Others, and Udata Narasimha Rao and Co. Vs. The State of Andhra Pradesh and Another, It is now well-settled by the decisions of the courts that these terms should be understood as they are understood in common parlance, in commercial sense, not in any technical sense : see State of U.P. and Others Vs. Indian Hume Pipe Co. Ltd., .

6. In Webster''s Third New International Dictionary, the meaning of "lotion" is given as :

"(1) The act of washing, ablution.

(2) A liquid usu. aqueous medicinal preparation containing one or more insoluble substances and applied externally for skin disorders.

(3) A liquid cosmetic preparation usu. containing alcohol and a cleansing, softening or astringent agent and applied to the skin, esp., of the face and hands after shave."

7. In Shorter Oxford Dictionary, lotion is defined as :

"(1) to wash; the action of washing (the body); washing with a medicinal preparation; (2) the washing of metals, medicines, etc., in water to cleanse them; (3) a liquid preparation used externally to heal wounds, relieve pain, beautify the skin, etc."

8. In Random House Dictionary of the English Language, the meaning of "lotion" is given as follows :

"1. A liquid usually aqueous or sometimes alcoholic preparation containing insoluble material in the form of a suspension or emulsion, intended for external application without rubbing, for skin conditions such as itching, infection, allergy, or the like. 2. A liquid cosmetic, usually containing agents for soothing or softening the skin, esp., that of the face or hands : after-shave lotion; hand lotion."

9. In Chamber''s 20th Century Dictionary, the meaning of "lotion" given is :

"A washing : a wash, medicinal or cosmetic."

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10. In Random House Dictionary, the meaning of "dye" is given as :

"1. A coloring material or matter : 2. A liquid containing coloring matter, for imparting a particular hue to cloth, paper, etc. 3. Color or hue, especially, as produced by dyeing. 4. Of the deepest or blackest dye, of the most extreme or worst sort : A prevaricator of the blackest dye; 5. v.t. To color or stain; treat with a dye; color (cloth, hair, etc.,) with a substance containing coloring matter : to dye a dress green. 6. To import (color) by means of a dye."

11. In the Encyclopaedia Britannica, Vol. II, Edition 1953, under the heading "Massaging the scalp", it is stated :

"Tonics, lotions, ointments or pomades are applied to the scalp by means of massage movements. These preparations are formulated to correct or ameliorate various scalp condition, excessive oiliness and excessive dryness being the commonest. Normally the oil glands which are attached to the roots of hairs, secrete a natural lubricant in sufficient quantity to keep the surface of the scalp soft and to keep the hair supple and lustrous. Ill-health or local infection may disturb the functioning of these oil glands and excessive oiliness, or a lack of natural oil, may result. For excessive oiliness, astringent lotions and tonics are used, and these should be applied directly to the scalp (with a medicine dropper or a swab of absorbent cotton) and massaged into the scalp. For dry hair, ointments and pomades are used, which serve to supply the lack of natural lubrication in the scalp."

The meaning given for lotion in these books shows that lotion is a medicinal preparation applied externally for skin disorders.

12. Hair-dye is a coloring material and it is used for beautification to blacken the gray hair. It is not used as a medicinal preparation to cleanse the hair or the skin disorders. Therefore, we hold hair-dye is not hair lotion within the meaning of entry 36 of the Act. Consequently we set aside the order of the Sales Tax Appellate Tribunal, Hyderabad. Accordingly, the tax revision case is allowed with costs.

13. Advocate''s fee Rs. 250.

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