(1998) 03 RAJ CK 0049

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2025 of 1988

Jagatjit Cotton Textile Mills Ltd., Sriganganagar APPELLANT

Vs

State of Rajasthan and Another RESPONDENT

Date of Decision : 09-03-1998

Acts Referred:

Citation : AIR 1998 Raj 177 : (1999) 1 RLW 354 : (1998) 3 WLC 174 : (1998) 1 WLN 383

Hon'ble Judges : P.P. Naolekar, J

Bench : Single Bench

Advocate : S.L. Jain, for the Appellant; N.P. Gupta, for the Respondent

Final Decision : Allowed

Judgement

P.P. Naolekar, J.—Petitioner Jagatjit Cotton Textile Mills is a limited company registered under the Indian Companies Act. One of its units is situated at Sriganganagar. The petitioner''s Sriganganagar unit is a textile unit and manufactures cloth in its factory. For the purposes of carrying on its business the petitioner imports within the municipal limits of the Municipal Council, Sriganganagar chemical-dyes and spare-parts of the textile machinery used for manufacture of the cloth. The Municipal Council, Sriganganagar issued a list of goods and the amount to be charged on them as octroi-duty.

2. u/s 104 of the Rajasthan Municipalities Act, 1959 every Municipal Board is empowered to assess and collect octroi-duty on the goods brought within the limits of the municipality for consumption or use or sale therein. According to the petitioner, it used to pay the octroi-duty on the chemical-dye under entry 37 of the Schedule at the rate of 7.50 per quintal, which reads as under:

^^gj izdkj ds nzO; rS;kj ''kqnk iSUV okjfu''k ,ukesYl vU; bl izdkj ds jklk;fud inkFkZ tSlk lQsnk okjful lw[ks lHkh izdkj ds jax dsfedy lHkh fMLVsEij lHkh izdkj ds okyisUV vk;y ,sukesYl iSUV lHkh izdkj ds bR;kfn**

and duty on spare-parts of the textile machinery under entry 75 which is as follows :

^^fo|qr lkeku ,oa lg olrq,a lHkh izdkj dk fctyh dk lkeku ikVZl ,oa e''khujh tks fctyh ls pyrh gS**

The Municipal Council, Sriganganagar has issued a list of 21 items providing the octroi-duty and the petitioner is being charged and asked to pay octroi-duty at the rate of 2 per cent of the value of the goods treating the chemical-dye to be falling under entry 10, comprising of the items viz., Turpentine, Aluminium paint, paint black, green, yellow, blue, red, enamel paint, brushes; and, for spare-parts of the textile machinery at the rate of 2 per cent of the value of goods under entry 16 viz., "all other goods relating to generation and consumption of electricity not included in this schedule".

It is submitted by learned counsel for the petitioner that the goods viz., chemical-dye and machinery parts, brought within the municipal limits by the petitioner do not fall within entry 10 and entry 16 respectively and, therefore, the duty at the rate of 2 per cent of the value of goods cannot be charged from the petitioner.

3. In Nagar Mahapalika, Bareilly Vs. State of U.P. and Others, it has been held by the Supreme Court that while giving a meaning to an item contained in the schedule of articles, the Court should normally give it a meaning intended by the framers of the schedule by looking at the various articles mentioned in a particular group. All the items in one group should be considered in a generic sense.

The rule of construing the statute is laid down by the apex Court in a case reported in Lt.-Col. Prithi Pal Singh Bedi and Others Vs. Union of India (UOI) and Others, It has been observed at para 8 as follows :--

"The dominant purpose in construing a statute is to ascertain the intention of the Parliament. One of the well recognised canons of construction is that the legislature speaks its mind by use of correct expression and unless there is any ambiguity in the language of the provision the Court should adopt literal construction if it does not lead to an absurdity......................If there is none, it would mean the language used, speaks the mind of parliament and there is no need to look somewhere else to discover the intention or meaning....................."

When we consider entry 10 and entry 16 of the Schedule we reach to the conclusion that the presence of goods turpentine and brushes along with different shades of paints in entry 10 is significant and has a definite reference to the paints which are being used for painting the walls, wood, and metal and not to the chemical-dye used to give colour to fabric. The chemical-dye would not fit in with the items mentioned in the group under entry 10. The petitioner cannot be charged with the octroi-duty at the rate of 2 per cent of the value of the goods chemical-dye under entry 10 of the list dated 28-5-85.

4. Entry 16 speaks of all other goods relating to generation and consumption of

electricity not included in this schedule. So, all the goods which are related to generation and consumption of electricity, and not included in the schedule, shall fall within entry 16. The words "nut included in the schedule" have reference to entry 15 which specifies goods related to ''generation and consumption of electricity''. Entry 15 reads as under:

"15. Electric Goods Lamps SC 230V 15W " " " 40W " " " 60W " " " 100W " " " 150W Pignyindication lamps 100V 15W Links clips 1", 1 1/4", 1 1/2", 2" TC Fuse wire of various size Welding electrodes, accetylene, Black adhesive tapel" to 1/4" Yellow empire tape 1/4" P.T. I. Insulating tape, silicage, wire brushes etc. emperypaper rough"

and what does not fall within entry 15 is sought to be covered by entry 16. On a plain reading of entry 16, by no stretch of imagination, spare-parts of textile machinery could fall within entry 16 of the list. The Municipal Council cannot assess and charge octroi-duty from the petitioner on spare-parts of the textile-machinery at the rate of 2 per cent of the value of the goods treating the same to be falling within entry 16.

5. As a result of the foregoing discussion, the writ petition is allowed. The petitioner is not liable to pay octroi-duty or chemical-dye and spare-parts of the textile machinery at the rate of 2 per cent of the value of the goods under entry 10 and 16 respectively of the Schedule. There shall, however, be no order as to costs.

