(1992) 08 BOM CK 0064

In the Bombay High Court

Case No : Writ Petition No. 1447 of 1986

J.T. Enterprises APPELLANT

Vs

State of Maharashtra and another RESPONDENT

Date of Decision : 28-08-1992

Acts Referred:

Citation : (1993) MhLj 52

Hon'ble Judges : V.A. Mohta, J;B.P. Saraf, J

Bench : Division Bench

Advocate : D.K. Deshmukh, for the Appellant; B.P. Jaiswal, ''A'' Panel Counsel, for the Respondent

Final Decision : Dismissed

Judgement

V.A. Mohta, J.—Item "forged wire nails" falls under which of the two entries - Entry 6(viii) of Schedule B or residuary Entry 102 of Schedule C of the Bombay Sales Tax Act (the Act) - is the question.

Legal principles in reading such entries are well settled. Residuary entry cannot be looked into in case goods fall under specific entry. Not the technical or the dictionary meaning but the meaning given to the goods in common parlance determines the entries under which they fall.

2. Entry 6 reads thus :

6. Iron and steel, that is to say. -

(i) pig iron and cast iron, including ingot moulds, bottom plates, iron scrap, cast iron scrap, runner scrap and iron skull scrap;

(ii) steel semis (ingots, slabs, blooms and billets of all qualities, shapes and sizes);

(iii) skelp bars, tin bars, sheet bars, hoe-bars and sleeper bars:

(iv) steel bars (rounds, rods, square, flats, octagons and hexagons, plain and ribbed or twisted, in coil forms as well as straight lengths);

(v) steel structurals (angles, joints, channels, fees, sheet pilling sections, Z sections or any other rolled sections);

(vi) sheets, hoops, strips and skelp. both black and galvanised, hot and cold rolled, plain and corrugated, in all qualities, in straight lengths and in coil forms, as rolled and in revetted condition;

(vii) plates both plain and chequered in all qualities;

(viii) discs, rings, forgings and steel casting;

(ix) tool, alloy and special steels of any of the above categories;

(x) steel melting scrap in all forms including steel skull, turning and borings;

(xi) steel tubes both welded and seamless, of all diameters and lengths, including tube fittings;

(xii) tin-plate, both hot dipped and electrolytic and tinfree plates;

(xiii) fish plate bars, bearing plate bars, crossing sleeper bars, fish plates, bearing plates, crossing sleepers and pressed steel sleepers, fans-heavy and light craner rails;

(xiv) wheels, tyres, axles and wheel sets;

(xv) wire rods, and wires-rolled, drawn, galvanised, aluminised, tinned or coated such as by copper;

(xvi) defectives, rejects, cuttings or end pieces of any of the above categories."

Wire nails are made out of M. S. wire by single cold-forging operation. Only because forging operation is involved, the item subjected to forging operation cannot be called "forgings" in the context of Entry 6(viii). Commercially speaking wire nails are essentially hardware items and not ''forgings''. The Director General of Technical Development, through the Government of India, Ministry of Finance, New Delhi has, under the circumstances, rightly opined that they do not fall under the heading "forging and steel casting". The STO, Commissioner as well as the Sales Tax Tribunal rightly and by exhaustive treatment to the subject have treated the item as not falling under Entry 6(viii) of Schedule B and as falling under the residuary Entry since no other entry can be attracted. Since we are in agreement with the said view in entirety, it is unnecessary to repeat the reasonings over again. No case for interference in writ jurisdiction, therefore, exists and hence the petition is dismissed and rule discharged, with no order as to costs.

