(1956) 03 AP CK 0024

In the Andhra Pradesh High Court

Case No : T.R.C. No. 33 of 1955

Kosuri Subba Raju — APPELLANT

Vs

State of Andhra — RESPONDENT

Date of Decision : 21-03-1956

Acts Referred:

Citation : AIR 1957 AP 890 : (1956) ALT 574 : (1956) 7 STC 479

Hon'ble Judges : K. Subba Rao, C.J;Viswanatha Sastry, J

Bench : Division Bench

Advocate : G. Suryanarayana, M. Dwaraknath and M. Seshachalapathi, for the Appellant;

Final Decision : Dismissed

Judgement

K. Subba Rao, C.J.—This is a revision against the order of the Andhra Sales Tax Appellate Tribunal, Guntur.

2. The facts are simple. The petitioner is the proprietor of Prabhat Tape Manufacturing Company, Palakol, and obtained a licence u/s 5 of the Madras General Sales Tax Act (hereinafter referred to as the Act) to deal in cloth woven on handloom wholly or partly with mill yarn. During the year 1952-53, he sold nawar tape of the value of Rs. 48, 337 and claimed exemption u/s 5(iii) of the Act. The Commercial Tax Officer, West Godavari, and on appeal the Tribunal, held that the petitioner was not entitled to the exemption on the ground that nawar tape was not "cloth" within the meaning of section 5(iii) of the Act. Hence the revision.

3. The only question in revision is whether nawar tape is exempted u/s 5(iii) of the Act. Section 5(iii) runs :

"the sale of any cloth woven on handlooms wholly or partly with mill yarn shall be exempt from taxation u/s 3, sub-section (1)..............."

4. Nawar tape is woven on handlooms with mill yarn. It is woven in thick narrow

bands used as mat for cots. But it cannot be an exempted item unless it is also cloth.

5. Learned counsel for the petitioner contends that the principle underlying the exemption, namely, to encourage the production of hand-woven cloth or to help weavers whose livelihood depends upon that industry, applies as much to nawar tape as to cloth, for both are woven on handloom with mill yarn and by the same class of persons to whom the protection is designed. We cannot stretch the language of a statutory provision to bring it in accord with a supposed legislative intention underlying it, unless the words are susceptible of carrying out that intention. The word "cloth" is not a word of art. In common parlance, it designates the fabric used for garments, coverings and such other purposes. It is impossible to conceive that the Legislature, which presumably knew the popular meaning of that word, would have used it in a comprehensive sense as to take in nawar tape. A simple test is would any person go to a bazaar and ask for cloth when he wants nawar tape. Though the process of manufacture may be the same, both the words have acquired secondary meanings. If the Legislature intended to exempt nawar tape, they would have used that word specifically, as the Government have done in a subsequent notification dated 18th November, 1954.

6. Learned counsel appearing for both parties relied upon the dictionary meanings of the words "cloth" and "tape".

7. Oxford English Dictionary. Vol. II, page 522 - Cloth :

"(1) a piece of pliable, woven or felted stuff, suitable for wrapping or winding round, spreading or folding over, drying, wiping or other purpose.

(2) A name given, in the most general sense, to every plaint fabric woven, felted, or otherwise formed, of any animal or vegetable or even mineral filament ...."

8. Chambers Twentieth Century Dictionary - Cloth : Woven material from which garments or coverings are made.

9. Oxford English Dictionary, Vol. XI, page 83 - Tape : A narrow woven strip of stout linen, cotton, silk or other textile used as a string for tying garments.

10. Chambers Twentieth Century Dictionary - Tape : Material woven in narrow bands, a strip of such material used for tying up, connecting etc.

11. It is clear from the aforesaid definitions of cloth that it is used in a wider sense and also in a narrower sense. In a wider sense, it may take in every fabric woven of yarn or other material. In a narrow sense, it connotes a woven material used for garments or clothing. In contradistinction to the word "cloth", the word "tape" is defined as material woven in narrow bands. In the context of the present section and in view of the essential distinction between cloth and tape and, above all, in view of the secondary meanings the said words have acquired

in popular parlance, we have no hesitation to hold that the word "cloth" in section 5(iii) could not take in nawar tape. It is then contended that the petitioner is entitled to the exemption under the notification issued by the Government dated 18th November, 1954. The notification reads :-

"In exercise of the powers conferred by section 6(1) of the Madras General Sales Tax Act (IX of 1939) as subsequently amended, the Governor of Andhra hereby exempts from the tax payable u/s 3, sub-section (1), of the Act, the sales of handloom cotton nawar tape by persons who deal exclusively in such handloom cotton nawar tape."

12. This notification is dated 18th November, 1954, and the notification in terms does not make its operation retrospective. We cannot, therefore, give any retroactivity to this notification which came into force on 18th November, 1954, i.e., subsequent to the assessment year in question. This notification, therefore, cannot help the petitioner.

13. In the result, we agree with the judgment of the Sales Tax Appellate Tribunal and dismiss the petition with costs. Advocate''s fee Rs. 50.