
(1984) 02 P&H CK 0110

In the Punjab And Haryana At Chandigarh

Case No : General Sales-Tax Reference No. 11 of 1977

Lavkush Hosiery

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 08-02-1984

Acts Referred:

Central Sales Tax Act, 1956 — Section 14

Citation : (1984) 2 ECC 215 : (1985) 22 ELT 402

Hon'ble Judges : Rajendra Nath Mittal, J; M.M. Punchhi, J

Bench : Division Bench

Advocate : S.C. Kapila, for the Appellant; D.S. Brar, for the Respondent

Judgement

M.M. Punchhi, J.—The Sales Tax Tribunal, Punjab, has referred the following question of law to this Court for opinion :

"Whether "hosiery goods" are "declared goods" and fall within the ambit and scope of Section 14 of the Central Sales Tax Act, 1956 ?"

2. No elaborate facts are required to be noticed. The petitioner-assessee is a registered dealer dealing in hosiery goods. In its quarterly returns for the assessment year 1966-67, it indicated inter-State sales and claimed that no Central Sales Tax was leviable, since the sales had been made to Nagaland and were thus exempt from levy of tax. The plea of the assessee was rejected. Two questions had arisen : (i) whether "hosiery goods" were "declared goods" under the Central Sales Tax Act and, if so, (ii) what was the rate of tax if those sales had been made to unregistered dealers. The matter was agitated up to the Sales Tax Tribunal but the assessee could get no relief. Finally, he claimed reference in consequence of which the sole question, above noted, was referred for opinion.

3. At the outset it must be mentioned that "hosiery goods" as such are not "declared goods" u/s 14 of the Central Sales Tax Act. The effort of the assessee was to bring them within the ambit of "cotton fabrics" as figuring in the list in Section 14 at (ii-a) as also within that of "woollen fabrics" figuring at (x). His

plea was that "hosiery goods" are fabrics, be they cotton or woollen. It need be noticed here that "cotton fabrics" are those as defined in item No. 19 and "woollen fabrics" are those as defined in item No. 21 of the First Schedule to the Central Excises and Salt Act, 1944.

4. The first concern is how to find what are "hosiery goods". Some precedents can be helpful. In *Ramavatar Budhaiprasad Etc. Vs. Assistant Sales Tax Officer, Akola*, , the Supreme Court ruled that the word "vegetables" in item 6 of Schedule II of the C.P. and Berar Sales Tax Act, 1947, must be construed not in any technical sense nor from the botanical point of view, but as understood in common parlance, and further that, since the word had not been defined in the Act and being a word of every day use, it must be construed in its popular sense meaning "that sense which people conversant with the subject-matter with which the statute is dealing, would attribute to it". In *Commissioner of Sales Tax, Madhya Pradesh Vs. Jaswant Singh Charan Singh*, , it was ruled that a sales tax statute being one levying a tax on goods must, in the absence of a technical term or a term of science or art, "be presumed to have used an ordinary term according to the meaning ascribed to it in common parlance". The same principle was followed in *State of West Bengal and Others Vs. Washi Ahmed and Others*, , while considering whether green ginger fell within the ambit of "vegetables" or not. The principle was reiterated in *Union of India (UOI) and Others Vs. Gujarat Woollen Felt Mills*, , that resort should be had not to the scientific or the technical meaning of terms in such like statutes but to their popular meaning, or the meaning attached to them by those dealing in them, that is to say, to their commercial sense. And since the term "hosiery goods" has not been used anywhere in the Central Sales Tax Act as such, the meaning of the term as commercially and popularly understood shall first be attempted.

5. Now the word "hosiery" according to the Webster's New International Dictionary (Second Edition) means "goods knit or woven like hose" and the word "hosier" to mean "one who deals in hose, or in clothing knit or woven like hose". So, according to the dictionary meaning, "hosiery goods" are knitted goods for clothing or, in other words, knitwear. It is precisely in this sense that the term is used commercially and popularly to goods which are close-fitted coverings for different parts of human body like feet and legs, legs alone, chest and arms, chest alone, and other clothing in the general nature of tights or close-fittings. It is besides the point as to what yarn is employed in that knitwear. To illustrate a few items, vests and underwear are normally cotton knitwear. Pullovers, sweaters, cardigans, gloves, socks and knitted caps are normally woollen knitwear. Such like items which are handy clothing prepared by the process of knitting are not only commonly and popularly but also commercially known as "hosiery goods". This is the meaning we would like the item in question to bear for the decision of this reference.

6. The learned counsel for the petitioner, however, maintained that "hosiery goods" are fabrics, woollen or cotton, on the strength of *Union of India (UOI)* and

Others Vs. Gujarat Woollen Felt Mills, . In that case, the assessee was engaged in the business of manufacturing non-woven felts from woollen fibres meant for the purpose of filtration in heavy industries. Those felts were manufactured by the method of machine pressing raw wool-waste in the thickness varying from 1 mm. to 50 mm. depending on the specification of the customers. The High Court of Gujarat termed those felts to be woollen fabrics within the meaning of entry 21 of the First Schedule to the Central Excises and Salt Act. Before the Supreme Court, the appellant-Union of India maintained that the felts manufactured by the assessee were neither sheets nor fabrics and they were not material from which garments could be prepared nor they could be used as covering or for similar other purposes. Their Lordships of the Supreme Court rejected the contention of the Union of India in the following words :

"In this group, entry 21 describes woollen fabrics as meaning all varieties of fabrics manufactured out of wool, barring the exceptions mentioned, including blankets, lohis, rugs, shawls and embroidery in the piece, in strips or in motifs. If the term "woollen fabrics" in this entry had been used in its technical or scientific sense and, if in that sense, it was wide enough to cover even woven or knitted material which is wool, then it is difficult to explain why the entry should specifically mention blankets, rugs and shawls as being included within it. No one could possibly be in any doubt in respect of these few items if the term was so pervasive, and there was no reason for singling out these specific objects. On the contrary, the mention of these items suggests that the word "fabrics" in entry 21 has been used to mean woven material in which sense it is popularly understood, and blankets, rugs and shawls, etc., have been specifically included in the entry out of abundant caution to indicate that "woollen fabrics" in entry 21 means not only woollen garments but also woollen material used as covering or for similar other purposes."

7. It is on the strength of the aforesaid passage that the learned counsel for the assessee maintains that woollen fabrics have been held to include woollen garments. And on that analysis, it is maintained that "hosiery goods" are woollen garments so as to fall within the ambit of "woollen fabrics" (or, as the case may be, "cotton fabrics").

8. We have applied our mind thoroughly to the subtlety introduced herein by the petitioner's learned counsel. According to the Webster's New International Dictionary, already employed by us, the word "fabric" means cloth that is woven or knit from fibres. Cloth or fabric is the end-product of the process of weaving or knitting of fibres, cotton or woollen, as the case may be. But that is a technical or scientific meaning of the word "fabric". The Supreme Court in the afore-quoted case patently drew the distinction between "woven material" and "knitted material" and spelled out that woven material even in the shape of garments was within the meaning of "fabrics" but not "knitted material". Then there is also a world of difference between "cloth" and "clothing". It seems to us that knitted cloth, be it woollen or cotton, would even be not fabric, what to say

"hosiery goods" which are "knitted clothing", i.e. knitwear. It is, no doubt, true that pieces of cloth as such are sometimes also used as garments. Illustratively, a dhoti is a fabric as also a garment. Blankets, lohis, rugs and shawls are also fabrics but as wrapping or covering material are garments. As it seems to us, the Supreme Court in Union of India (UOI) and Others Vs. Gujarat Woollen Felt Mills, , while explaining entry 21 in the First Schedule to the Central Excises and Salt Act, had used the expression "woollen garments" to be included therein in the limited sense in which, comparatively as a class, blankets, lohis, rugs, shawls, etc., had been mentioned. That is why, in the earlier part of the extracted paragraph, their Lordships had specifically ruled that if the term "woollen fabrics" had been used in its technical or scientific sense, then it was wide enough to cover even woven or knitted material, which was wool but then it was difficult to explain why the entry should specifically mention blankets, rugs and shawls as being included therein. They further took aid for the view by singling out these specific objects and opined that the term "woollen fabrics" was not so pervasive. Thus, in our considered view, the aforesaid case is of no help to the assessee to maintain that the term "woollen fabrics" as employed in item No. 21 of the First Schedule to the Central Excises and Salt Act, was wide enough to include therein "hosiery goods". What is true of "woollen fabrics" is true of "cotton fabrics" wherein items such as dhotis, saris, chaddars, bed-sheets, bed spreads counterpanes, tablecloth, embroidery pieces, etc., have been included.

9. Thus, for what has been said above, it is our considered view that "hosiery goods" can, by no means, be termed as "declared goods" so as to fall within the ambit and scope of Section 14 of the Central Sales Tax Act, 1956., Therefore, we answer the question, posed at the very outset, in the negative, i.e., against the assessee and in favour of the revenue. Ordered accordingly