(1976) 10 P&H CK 0019

In the Punjab And Haryana At Chandigarh

Case No : General Sales Tax Reference No. 8 of 1974

Laxmi Machinery Store APPELLANT

Vs

State of Punjab RESPONDENT

Date of Decision : 13-10-1976

Acts Referred:

Citation : (1977) 39 STC 87

Hon'ble Judges : O. Chinnappa Reddy, Acting C.J.;M.R. Sharma, J

Bench : Division Bench

Advocate : G.C. Mittal, for the Appellant; L.K. Sood, for the Respondent

Judgement

O. Chinnappa Reddy, Ag. C.J.—The Sales Tax Tribunal, Punjab, has sought our opinion on the following two questions :

(1) Whether rubber transmission belting is covered by item 30-B of Schedule B to the Act so as to earn an exemption from the levy of tax ?

(2) Whether rubber transmission belting is covered by item 30-C of Schedule B to the Act so as to earn exemption from the levy of sales tax ?

2. In Order to answer the questions, it is necessary to know what "rubber transmission belting" is. The parties are agreed that the following description of "rubber transmission belting" contained in the Order of the Sales Tax Tribunal is correct:

Transmission belting is manufactured by laying thin layers of compound made by rubber chemicals, colouring, chalk and petrol on canvas and thereafter belting is prepared in different thicknesses by mere contact folding of the rubberised canvas.

3. From this description, it is clear that "rubber transmission belting" is manufactured by the superimposition of rubber compound on either side of canvas. The que''stion is, whether "rubber transmission belting" is covered by entry 30-B or 30-C of Schedule B of the Punjab General Sales Tax Act so as to be

exempt from the imposition of sales tax.

4. Item 30-B is as follows :

Such varieties of canvas cloth, tarpaulins and similar other products, manufactured with cloth as base, as are manufactured in textile mills, powerloom factories and processing factories.

5. Item 30-C is as follows :

Leather cloth and inferior or imitation leather cloth ordinarily used in book-binding; rubberised tissue or synthetic waterproof fabrics whether single-textured or double-textured ; and book-binding cotton fabrics.

6. We may assume that "rubber transmission belting" is manufactured in a "processing factory". There is also no doubt that it is manufactured with cloth as a base. The question is whether it comes within the description of "similar other products". The word "similar" apparently refers to the expression, "canvas cloth and tarpaulins", which precede the expression "similar other products". In Order to be classified as a product similar to canvas cloth and tarpaulins, it must be of the same nature as canvas cloth and tarpaulins. The very different use to which canvas cloth and tarpaulin on the one hand and rubber transmission belting on the other are put clearly indicates that they cannot be considered similar in nature. That was the view which was taken by the Sales Tax Tribunal, Punjab and we agree with that view.

7. In Order to come within entry 30-C, rubber transmission belting must first be capable of being described as a fabric. In common parlance, fabric means "a woven, felted or a knitted material for wear or ornament, as cloth, felt, hosiery or lace". In a broad sense, it may mean anything that is fabricated or put together. From a reading of entry 30-C, it has to be held that it is used in the former sense and not in the latter sense. The expression "leather cloth, imitation leather cloth and cotton fabrics" found in entry 30-C gives the necessary colour and meaning to the word "fabrics".

8. In the result, both the questions referred to us are answered in the negative and against the assessee. There will be no Order as to costs.

