

(1973) 07 MAD CK 0053

In the Madras High Court

Case No : Tax Case No. 453 of 1971 and Revision No. 321 of 1971

M. Jeewajee and Co.

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 10-07-1973

Acts Referred:

Tamil Nadu General Sales Tax Act, 1959 — Section 8

Citation : (1974) 34 STC 4

Hon'ble Judges : V. Ramaswami, J;Ramanujam, J

Bench : Division Bench

Advocate : C. Venkataraman, of C.S. Chandrasekara Sastri, C. Venkataraman, C. Natarajan and M.R. Srinivasan, for the Appellant; K. Venkataswami, First Assistant Government Pleader (Tax), for the Respondent

Final Decision : Dismissed

Judgement

Ramanujam, J.—The assessees in this case are dealers in cotton canvas, tarpaulins, aluminium beedings, etc. In the course of the assessment for the assessment year 1968-69 the assessees claimed exemption in relation to their sales of tarpaulins. The assessing authority as well as the Appellate Assistant Commissioner held that tarpaulins as such are not goods exempted from sales tax u/s 8 of the Tamil Nadu General Sales Tax Act, 1959 (hereinafter referred to as the Act) read with item 4 of Schedule III. The said view has been upheld by the Tribunal. The Tribunal has held that though the processed canvas cloth used for the manufacture of tarpaulin will fall within the expression "textile", tarpaulin as a finished product after the processed canvas cloth is cut and stitched on four edges with eyelets cannot be treated as textile. We have held in Deputy Commissioner of Commercial Taxes, Madras v. East India Rubber Works T.C. 393 of 1969 , that the processed waterproof cloth out of which tarpaulin is generally made will not fall within item 4 of Schedule III. The Tribunal has proceeded on the basis that the processed cloth out of which tarpaulin is made is "textile", but tarpaulin as a finished product is not a textile. Even assuming that the processed

cloth out of which tarpaulin is made is textile, the question that arises in this case is as to whether tarpaulin which was stitched on all sides with eyelets can be treated as textile falling under item 4 of the Third Schedule to the Act. According to the Tribunal, the processed waterproof cloth has been cut and edges were stitched with eyelets and the finished product is a distinct and separate commercial product which cannot be equated with processed canvas cloth. In that view, the Tribunal has rejected the claim of the assesseees for exemption.

2. The contention of the learned Counsel for the assesseees is that even though there is some work done on the processed canvas cloth, the cost of such work, namely, stitching the ends and eyeleting would be very negligible and that, therefore, it should be considered that tarpaulin is only processed canvas cloth. Whether the work is negligible or not, the processed canvas cloth is not sold as such, but tarpaulin is sold as a separate finished product apart from the processed canvas cloth. We are; since reported in clearly of the view that the Tribunal is right in holding that tarpaulin sold as a finished product cannot at all be treated as a "textile" falling under item 4 of Schedule III. Tarpaulin as a finished product is a different marketable commodity and it cannot be said that it is either sold as a textile or it continues to have the properties and characteristics of cloth.

3. The result is the Tribunal's view is upheld and the tax case is dismissed with costs. Advocate's fee Rs. 150.