

(1959) 10 AP CK 0001
In the Andhra Pradesh High Court
Case No : Writ Petition No. 865 of 1958

M.A. Rahim

APPELLANT

Vs

Deputy Commercial Tax Officer

RESPONDENT

Date of Decision : 17-10-1959

Acts Referred:

Citation : (1960) 11 STC 355

Hon'ble Judges : Bhimasankaram, J

Bench : Single Bench

Advocate : C. Mallikarjuna Rao, for the Appellant; The Third Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Bhimasankaram, J.—The petitioner-firm deals in ready-made clothes and shoes. In its return for the year 1957-58, it claimed exemption from sales tax on a turnover of Rs. 44,698-40 nP. relating to its sales of ready-made clothes. The exemption was based on the terms of G.O. Ms. No. 2328 (Revenue) dated 13th December, 1957. By that Government order, the Government of Andhra Pradesh exempted from the levy of sales tax all varieties of textiles manufactured by handloom, powerloom, or otherwise. That exemption was subsequently incorporated in the Andhra Pradesh General Sales Tax Act by adding a fifth item to Schedule V which specifies exempted goods. The petitioner claimed that that exemption applied to ready-made clothes made out of textiles. The claim was rejected. The petitioner seeks the issue of a writ against the Deputy Commercial Tax Officer, Lord Bazar, Circle I, Hyderabad, prohibiting him from levying sales tax on the above-mentioned turnover. It is contended for him that the words "all varieties of textiles" include ready-made clothes. I am unable to agree with this contention. It seems to me plain that finished products made of cloth do not fall under the description of textiles. Reliance is placed by the petitioner on the decision of the Supreme Court in *Kailash Nath v. State of U.P.* [1957] 8 S.T.C. 358. In that case, the Uttar Pradesh Government issued a notification exempting

from the levy of sales tax the sales of cotton cloth or yarn manufactured in Uttar Pradesh on or after a specified date with a view to export such cloth or yarn outside the territories of India. The petitioners before the Supreme Court sold cotton cloth manufactured by them to their constituents who thereafter dyed and printed such cloth with a hand-made apparatus and exported it overseas as hand-printed cloth. The question before the Court was whether the petitioners were entitled to exemption under the notification. It was held by the Supreme Court that although the colour of the cloth had changed by printing and processing, the cloth exported was the same as the cloth sold by the petitioners and they were therefore entitled to the exemption under the notification. It was argued before their Lordships that "when the quantity of cloth sold by the petitioners is printed, coloured or dyed, it gets transformed into some other material and therefore what is exported is, not the same cloth." That argument was rejected as unsound. Their Lordships distinguished the case before them from the case of *State of Travancore-cochin and Others Vs. Shanmugha Vilas Cashew Nut Factory and Others*, wherein it was held that "where cashew-nuts were purchased, conditioned and processed for export abroad, the exported article is not the same as the one purchased and therefore the exemption under Article 386 would not apply." Their Lordships then stated that there was a "vast difference between prepared cashew-nuts and printed cloth." In my opinion, this case is near the case in *State of Travancore-cochin and Others Vs. Shanmugha Vilas Cashew Nut Factory and Others*, than the case in *Kailash Nath v. State of U.P.* [1957] 8 S.T.C. 358. When a cloth is made into a shirt or a pyjama it would no longer be proper to describe it as mere cloth. It has assumed a new character. Such finished garments are clothes and no longer cloth.

2. In the result, the petition is dismissed with costs. Advocate's fee Rs. 100.