(1964) 11 GUJ CK 0012

In the Gujarat High Court

Case No : Sales Tax Reference No. 36 of 1963

S. Tajbhai and Sons — APPELLANT

Vs

The State of Gujarat — RESPONDENT

Date of Decision : 18-11-1964

Acts Referred:

Bombay Sales Tax Act, 1959 — Section 52

Citation : (1966) 17 STC 133

Hon'ble Judges : P.N. Bhagwati, J;J.M. Shelat, J

Bench : Division Bench

Advocate : R.C. Mankad and K. P. Doshi, for the Appellant; J.M. Thakore, Advocate-General and M.G. Doshit, Additional Government Pleader, for the Respondent

Judgement

Bhagwati, J.—The applicants carry on business as dealers inter alia in steel trunks at Rajkot. The applicants are registered under the Bombay Sales Tax Act, 1959, and hold registration certificate No. 56 RJC-672 dated 14th January, 1960. The applicants sold two steel trunks one twenty-one inches long and other twenty-seven inches long in the course of their business under a bill bearing No. 03825 and dated 17th August, 1961, and submitted an application to the Deputy Commissioner of Sales Tax u/s 52 of the Act for the determination of the sales tax payable on the sale of the said goods. The applicants contended before the Deputy Commissioner of Sales Tax that the steel trunks sold by the applicants were not suit-cases within the meaning of entry 12 of Schedule E and were, therefore, covered by the residuary entry 22 of Schedule E which applied to all kinds of goods not specified in any entry in any of the Schedules of the Act. The Deputy Commissioner of Sales Tax negatived the contention of the applicants and held that the word "suit-cases" was sufficiently wide to include steel trunks sold by the applicants and the said steel trunks were therefore covered by entry 12 of Schedule E and their sales were liable to be taxed under that entry. The applicants, feeling aggrieved by this decision of the Deputy Commissioner of Sales Tax, preferred an appeal to the Tribunal, but the Tribunal also took the same view and hence the present reference.

2. It will be seen from what is stated above that the only question which arises in the present reference is whether the steel trunks sold by the applicants can be said to fall within the category of goods described by the word "suit-cases", occurring in entry 12 of Schedule E. If they are suit-cases, their sales would be governed by entry 12 of Schedule E, but if they are not, their sales would fall within the residuary entry 22 of Schedule E. The former entry prescribes a rate of eight naye paise in a rupee as against the rate of three naye paise in a rupee prescribed by the latter entry. The contention of the revenue was that the steel trunks sold by the applicants were suit-cases and were, therefore, covered by entry 12 of Schedule E. This contention was disputed by the applicants who denied that the steel trunks sold by the applicants were included in the expression "suit-cases" as used in entry 12 of Schedule E and contended that the sales were governed not by entry 12 of Schedule E but by entry 22 of Schedule E. This controversy between the parties raised the question as to what is the true connotation of the expression "suit-cases" as used in entry 12 of Schedule E.

3. Now entry 12 of Schedule E, as it stood at the material time, was in the following terms : "Suit-cases, attache cases and despatch cases." The expression "suit-cases" in this entry has not been defined anywhere in the Bombay Sales Tax Act, 1959, and it must, therefore, be construed as understood in ordinary parlance. It is a well-settled principle of construction of words used in a legislative enactment that since laws are enacted to be read and observed by the people, "in order to reach a reasonable and sensible construction thereof, words that are in common use among the people should be given the same meaning in the statute as they have among the great mass of the people who are expected to obey and uphold them". The expression "suit-cases" must, therefore, 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". Vide Ramavatar Budhaiprasad Etc. Vs. Assistant Sales Tax Officer, Akola, . Now what is the popular sense in which the expression "suit-cases" is used : what is its meaning in ordinary parlance ? Mr. R. C. Mankad, learned Advocate appearing on behalf of the applicants, at one stage in the course of the arguments suggested that in ordinary parlance a suit-case would mean a travelling bag made of leather, but that is obviously incorrect because a suit-case need not necessarily be of leather; it may be of any other material such as hard-board, rexine, aluminium, etc. As a matter of fact, suit-cases made of aluminium are nowadays very popular and in common use for purposes of air travel. With vast scientific and technological progress taking place in the world, it would not be surprising to find suit-cases made of other lighter and more durable materials and we are told that there are also now plastic suit-cases available in foreign market. The material of which the article is made is, therefore, not a determinative or even a relevant factor for the purpose of deciding whether it can be called a suit-case. If the material of which it is made is not the test, then what is the test for determining whether an article is a suit-case ? Mr. R. C.

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Mankad referred to various dictionary meanings of the word "suit-case". The Concise Oxford Dictionary defines "suit-case" to mean "a kind of small portmanteau". A similar meaning is also to be found in Shorter Oxford Dictionary where the meaning given is "a clothes". Chambers'' Twentieth Century Dictionary gives the meaning as "an easily portable oblong travelling bag for carrying suits or clothes", and the meaning given in Webster''s New Twentieth Century Dictionary is "a valise or travelling bag that is flat and rectangular in shape. Originally it was called a dress-suit case and was designed to contain a suit of clothes and accessories." It will be seen from these meanings given by various lexicographers that a suit-case is essentially an easily portable travelling bag used for carrying clothes on a journey. It may be made of any material and though according to the meaning given by two of the dictionaries, it must be rectangular in shape, it need not necessarily be of any particular shape. What is essential and what distinguishes a suit-case from other articles used for carrying clothes on a journey is not the material of which it is made nor necessarily the shape, but the fact that it is an article which is easily and conveniently portable for the purpose of a journey. It is something which one can easily and conveniently carry on a journey. If an article used for carrying clothes on a journey is so big and heavy that it cannot be easily and conveniently carried by a person travelling, then it may be a trunk but it would not be a suit-case. An example of this may be found in what are commonly known as cabin trunks. They are usually made of hard-board but they are not easily and conveniently portable and for that reason no one would call them suit-cases. It is this test which we must apply for the purpose of determining whether the steel trunks sold by the applicants in the present case were suit-cases or not.

4. Before we apply this test, we must refer to one other argument of Mr. R. C. Mankad and that argument was that the context in which entry 12 of Schedule E occurred showed that what were intended to be covered by that entry were luxury goods or goods of a costly variety and ordinary steel trunks sold by the applicants would not be comprised within that entry. This argument does not appear to be well-founded and a reference to only one or two entries in Schedule E is sufficient to answer this argument. Entry 10 mentions, amongst other things, clocks and time-pieces. Now clocks and time-pieces cannot possibly be called luxury goods or goods which are not ordinarily used by common men. Equally, when we turn to entry 9, we find a reference made to braids, borders, laces and trimmings when sold by weight at a price of not less than fifty naye paise per ten grammes or when sold by length at a price of not less than fifty naye paise per meter. Now these goods also cannot possibly be called luxury goods or goods of a costly variety. Entry 12 itself also shows that when the Legislature mentioned suit-cases in that entry, the Legislature did not intended to refer only to luxury goods or expensive goods. Along with suit-cases, the Legislature also included despatch cases in entry 12, and despatch cases are goods which are commonly used by businessmen. There is, therefore, nothing in the context of entry 12 of Schedule E which should induce us to refuse to place

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upon the word "suit-case" the plain and natural meaning which that word bears in ordinary parlance and to put upon it a narrow and constricted meaning limiting it to suit-cases of an expensive variety so as to exclude from the scope and ambit of the entry steel bags, even though they may be easily and conveniently portable articles for carrying clothes on a journey like bags made of any other material. To do so would be to add words in the entry which are not there.

5. Applying the test which we have set out above, it is clear that the steel trunks sold by the applicants were suit-cases within the meaning of entry 12 of Schedule E. One steel trunk was twenty-one inches long while the other was twenty-seven inches long. Both the steel trunks were easily and conveniently portable articles for carrying clothes on a journey. Though the depths of the two steel trunks are not set out in the statement of the case, it is clear from the two similar steel trunk produced by Mr. R. C. Mankad before us that the depth of the steel trunk twenty-seven inches long was not more than about eight inches while the depth of the other steel trunk twenty-one inches long was even less and this was in fact not disputed by Mr. R. C. Mankad. Steel trunks of this size are clearly articles for carrying clothes which are easily and conveniently portable on a journey and though they may not have the same finish and elegance as travelling bags made of rexine or aluminium and may be a little heavier than those bags, they still satisfy the test for determining what is a suit-case and must therefore be regarded as suit-cases within the meaning of entry 12 of Schedule E.

6. Our answer to the question referred to us will, therefore, be in the affirmative. The applicants will pay the costs of the reference to the State.

7. Reference answered in the affirmative.

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