
(1984) 07 BOM CK 0013
In the Bombay High Court
Case No : Writ Petition No. 145 of 1982

Sainet Private Ltd. and Another	Vs	APPELLANT
Union of India (UOI) and Another		RESPONDENT

Date of Decision : 25-07-1984

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1989) 22 ECC 210 : (1984) 18 ELT 141

Hon'ble Judges : Deshpande, J; Couto, J

Bench : Division Bench

Advocate : K.H. Bhaba, K. Narasimhan, F.L. Berarwalla and S. Tamba, for the Appellant; D.K. Patkar, for the Respondent

Final Decision : Allowed

Judgement

Deshpande, J.—The petitioners are a factory situated at Corlim, Panaji, Goa. The petitioners are carrying on the activity of making nylon fishnets, "knitted" fabrics from the year 1972. The said fishnets are manufactured from Nylon Yarn which is doubled and twisted for making into Nylon twine yarn. The fishnets are made by knitting process.

2. The petitioners say that they are governed by the Central Excises Act in regard to the classification of goods and the Government in exercise of its powers exempted all man-made fabrics specified under the Notification No. 80/69, dated 1st March, 1969 from Excise duty.

3. The petitioners further say that the said product when it comes into existence by a process of weaving the said Nylon twine yarn without specifically averring that the expression "fabric" includes any substance which has been made inter alia, from yarn by a process of knitting. Then the petitioners have referred to certain standard Books and Nomenclatures and stated that these nets which they are manufacturing were also subject-matter of levying duty under the Sales tax authorities and they have treated these nets as fabrics. It appears that the

petitioners were no doubt paying the duty as demanded by the respondents. But in September, 1981 the petitioners requested the respondent No. 2 to classify the product as falling under Tariff Item No. 22 of the First Schedule of the Central Excises and Salt Act, 1944. The petitioners pointed out that a similar question was raised in another matter of M/s. Garware Marine Industries Ltd., formerly known as Modern Nets Ltd. who were also manufacturing nets for the past several years and were clearing fishnets as knitted fabrics. It was averred in the petition in para 8 that the Excise Authorities in Bombay had classified these identical nets manufactured by Messrs. Sadhana Knitters as falling under Tariff Item No. 22. A copy of that letter was also annexed to that petition.

4. The petitioners therefore addressed a letter to the respondent no. 2, the Assistant Collector of Customs, (Central Excise), Goa and invited him to decide whether or not the fish-nets "fall under Tariff Item No. 22(1) of the First Schedule of Central Excises and Salt Act, 1944.

5. It appears that a similar matter raising the same question was decided by the Appellate Collector and a Writ Petition challenging that judgment is pending before the High Court at Bombay. The petitioners have made a reference to that petition saying that the same petition is pending in the Bombay High Court, on appellate side, viz. Writ Petition. No. 3007 of 1980.

6. It is in these circumstances that the petitioners invited the Assistant Collector to decide the question in regard to the fishing nets produced by them, whether they are covered by Entry No. 22 or not. The Assistant Collector of Central Excise, Goa finally decided this matter by a judgment dated 23rd June, 1982. The Assistant Collector of Central Excise, Goa held that the product which is manufactured by the petitioners' Company is a fish-net which is classified under Tariff Item No. 68 which is called a residuary entry and giving his reasons that the product is not finished by knotting process and it is not also known as a "fabric" in the common trade parlance and it is also not used as such and there is no knitting or weaving process involved. He held that it is not a fabric and it falls under Tariff Item No. 68 as "other goods". In view of his finding he rejected the prayer of the petitioners and classified the product as being not covered by the Entry No. 22.

7. The petitioners have challenged this decision by way of a Writ Petition invoking the extraordinary powers of this Court despite not following the remedies available under the Act.

8. We are taking this point first because in answer to the contentions raised by the learned Senior Counsel for the petitioners, the learned counsel for the Government, that is for the respondents, specifically pointed out to us after the arguments were concluded by the petitioner that this petition should not be decided by this Court, on the contrary the petitioners are not entitled to any indulgence as they have failed to adopt the remedies available to them under the Act. Ordinarily, it is true that the High Court should not obstruct the ordinary

course of remedy permitted by the Act and the authorities under the Act, which Parliament has designated and nominated to decide certain disputes must be allowed to discharge certain functions. However, the powers of the High Court to intervene under Article 226 are not to circumvent or limited by any such fetters by not approaching the authorities of appeal or revision.

9. In this connection, the learned counsel for the petitioners invited our attention to paras 19 and 20 of the petition which deal with a specific ground as to why the petitioners were forced to approach this Court at this stage. The grounds given by the petitioners in not adopting the remedies under the Act are to be considered by this Court at the time of deciding whether or not this Court should exercise its extraordinary powers under Article 226. If the grounds are given which are found to be satisfactory, this Court would be loathe to decline jurisdiction. This is a matter where a citizen, the petitioners are being taxed under a taxing statute. In such matters the High Court should always see whether a petitioner should be denied the relief merely on this technical ground. In our opinion, the grounds set out by the petitioners in paras 19 and 20 are quite sufficient to grant them relief and decide the point of controversy raised by them although they have not availed of the statutory remedies under the Act.

10. The learned counsel for the respondents invited our attention to a judgment of the Gujarat High Court reported in 1982 Excise Law Times, page 245, wherein the Gujarat High Court was dealing with a similar petition which was filed for recovering levy under the Act. The Division Bench of the Gujarat High Court went on observing that there are very many delays in this Court; that there are very many mounting arrears noticed, that is they were referring to their Court and the Authorities under the Act which are constituted should be given an opportunity to decide and pronounce on all such questions raised by the petitioners. The Gujarat High Court ultimately in that case decided to send the papers to the concerned authorities condoning the delay without expressing any opinion on the point involved. Perhaps the learned counsel for the respondents wanted us to follow the same course and therefore he invited our attention to the said judgment. It is true, as we have observed above that not following the statutory remedies under the Act is a material circumstances to be considered by this Court at the time of hearing. However, in a case where fiscal statutes are brought in dispute and taxing liability is under consideration as being without authority of law, we do not think that, this court will be justified in declining jurisdiction in such matters. Moreover, the petitioners have stated in para 19 that the Appellate Authority of the Customs has expressed adverse opinion and the appeal from the Officer at Goa would also lie to him. Petitioner has stated that he does not expect any other order. There is another reason. When the matter only rests on the interpretation of a particular statute or section or Entry and does not involve any question of facts, it would not be a proper exercise of jurisdiction for this Court to decline jurisdiction because the interpretation of law and construction of a particular statute is ultimately the responsibility of this Court. In our view, although the objection raised by the learned counsel for the respondents is no

doubt a matter of worthy consideration, yet for the reasons which we have given above, we do not think that this petition can be rejected on that ground and the matter can be sent to the Collector.

11. The short question which arises for the decision in this case is whether the fishing nets fall within the Tariff Item in the First Schedule at Entry No. 22. The Entry No. 22 of Tariff Item of First Schedule of Central Excises and Salt Act, 1944 is as follows : -

"Man-made Fabrics-

Man-made fabrics means all varieties of fabrics manufactured either wholly or partly from man-made fibres or yarn and includes embroidery in the piece, in strips or in motifs, fabrics impregnated, coated or laminated with preparations of cellulose derivatives or of other artificial plastic materials and fabrics covered partially or fully with textile flocks or with preparations containing textile flocks, in each of which man-made (i) cellu-lose fibre or yarn, or (ii) non-cellulosic fibre or yarn, predominates in weight:"

We are not concerned with the other parts of the Entry as this petition can be disposed of only on the construction which is to be put on the words used in this Item, that is the meaning to be attached to the word "Fabrics" as used in this Tariff Item No. 22. The learned Senior Counsel, Shri Bhabha, first of all pointed out that this Entry is very clear. This Entry, according to the learned counsel clearly shows that it deals with man-made fabrics. Man-made fabrics means all varieties of fabrics, that means it will include (i) not only fabrics, but all varieties of such fabrics ; (ii) either manufactured wholly or partly from man-made fibres or yarn. The learned counsel emphasized these words "fibre" and "yarn" to show that if it is shown that the fibre or yarn which is the material which constitutes the fabric is made of a particular constituent which can be called a yarn, it would be obvious that any frame made of such fibre or yarn may result in making that particular frame as a fabric.

12. He further contended that the word "fabric" is not defined in the Act. The meaning which the learned Senior Counsel wanted to attach to this particular word was an ordinary meaning which is used or which is understood even in common trade parlance also. The learned counsel contended and relied specially on certain definitions in order to show how the meaning and concept of the word "fabric" as understood in the world of trade and commerce. The learned counsel invited our attention to Exhibit "B" which contains a list of definitions given of the word "fabric". It was stated as follows : -

"Fabrics (Textile) : A manufactured assembly of fabrics and/or yarns which has substantial surface area in relation to its thickness and sufficient mechanical strength to give the assembly inherent cohesion.

Note : Fabrics are most commonly woven or knitted but the term includes assemblies produced by lace-making, tufting, felting, net-making and the so

called non-woven processes."

In the Modern Textile Dictionary the word "fabrics" is used as follows :-

"A woven, knitted, plaited, braided, or felt material such as cloth, lace, hosiery etc., includes materials used in the manufacture."

There are other definitions also, specially at No. 5 it is stated that Fabric is also known as cloth, materials, goods, or stuff. Garments are made from Fabrics. There are three general classes of fabrics, apparel, decorative and industrial. We need not go to the dictionary meanings which are found in other dictionaries, but suffice to say that in general the term "fabric" includes ordinarily a textile fabric and it must also be said that in its generic term embraces all textile fabrics and laminar felts. The word "textiles" in the modern age has got a very wide meaning and it will apply to any manufacture from fibres, filaments, or yarns, natural or artificial, obtained by interlacing. In the Annual Book of ASTM defines cloth as "any textile fabrics" but specially designed for apparel domestic or industrial use. In addition to this, the learned counsel referred to Exhibit "C which is part of the Paper Book.

13. As per the Brussels Trade, Nomenclature the fishing nets are covered under Chapter 59.05. The Chapter 59 is u/s XI which covers Textile and Textile Articles. The relevant Section is as follows :-

"Nets and Netting made of twine, cordage or ropes and made up fishing nets of yarn, twine, cordage or ropes. These products are of open mesh knotted fabrics made (either by hand or machinery) of the twine, cordage or rope of the previous heading. They are classified here whether they are simply lengths of netting or in the forms of nets made directly of twine, cordage or ropes or assembled from pieces of netting made of these materials. The presence of handles, rings, weights, floats, cords or other accessories does not affect the classification of the goods in this heading. This heading is restricted to these nets not covered more specifically by other headings of the nomenclature."

And lastly it says that it includes fishing nets, camouflage nets, theatrical scenery nets, net shaping bags, and similar carrying nets e.g. for tennis balls or footballs, hammocks, balloons and airstrip nets, etc. The learned counsel relying on these definitions of the word "fabric" contended before us that the meaning which is to be given to the Entry No. 22 of the Tariff Item and certainly falls within the concept as understood and mentioned in different dictionaries and the standard nomenclatures such as Brussels Trade Nomenclature which is recognized in the whole world.

14. Before we go to examine the correctness of these definitions, it is obvious that the concept of "fabric" is concerned with some frame. Fabric means a thing put together. It is a frame or a structure which is woven or knitted or felted. It is made of something which can be called a material object. A material object means which can be thought about or which can be perceived as a material

object. In our opinion if a thing which is put together creating a particular frame or structure by a material which is either a fibre or yarn, we fail to see how it cannot on its plain meaning of the word "fabric" itself fall short of being included in Tariff Item No. 22. The dictionary meaning apart, the very concept of fabric is putting something together to give it a shape or frame. Then the only thing that remains to be considered is what is the root material or basic material which goes to form this fabric. In this case it is undisputed that the nylon yarn which is the basic constituent of this fibre is the basic constituent of this frame. In our opinion the Entry which says that this Man-made fibre or yarn is quite clear to show that the fishing net or product like fishing nets which are made of this yarn or man-made fibre must be included in Entry No. 22. There is no necessity to refer to any other parts of this Entry as we are not concerned with them.

15. The learned counsel then invited our attention to certain judgments in order to show how the meaning of fabric can be applied to this Entry. The first judgment which is relied on is *Garware Nylons Ltd. v. Union of India and Ors.* 1984 L IT 16 249. This judgment is of our Court and it is binding on us although the question which arose in this judgment, arose in respect of Entry No. 18 and the Court had occasion to consider the difference between twine and yarn. While interpreting that Entry, the Division Bench of this Court held that the yarn must have two characteristics. Firstly, it must be a spun strand and secondly, such strand should be primarily meant for use in weaving, knitting or rope-making. The twine yarn satisfies both the conditions in this case. The question in this case arose whether the nylon twine can be considered to be a specific type of nylon yarn. The Court further held that it is twisted or cabled yarn. In commercial parlance also nylon twine is considered as a kind of nylon yarn. Although it is a special type of yarn which is prepared, namely to make it suitable for being utilised in the manufacture of fishing nets or ropes, yet after the special process being applied to it, it retains its character as a nylon yarn and no new product emerges. In this case also the Collector had classified the goods under Entry No. 68. This case although does not deal with the concept of fabrics, certainly furnishes guidance to understand what is the difference between twine and yarn and one; it is held that the product in this case which is made by twine which also is a special type of yarn, it would not be difficult to give the ordinary meaning to the word yarn used in Tariff Item No. 22 to include the twine used by the petitioners in this case as being yarn. It is for this purpose that the learned counsel relied on this authority and while following the ratio laid down in this case, we find that the twine which is a special type of yarn is nothing but a yarn and if it is so, it is clearly included in the description of goods given at Tariff Item No. 22 saying that man-made fibres or yarn. In our opinion, accepting the ratio of this judgment, we think that merely because the petitioners are using a particular type of yarn called a twine, the special type of twine which they are using cannot be said to be a different thing and as such it can be included within the expression used in Tariff Item No. 22 saying as man-made fibres or yarn,

16. The learned Senior Counsel after having referred to the dictionary meaning,

invited our attention to the impugned judgment. According to the learned counsel, the Assistant Collector who decided the matter has not considered the question at all. In the paragraph including his judgment he has observed as follows : -

"The product which is manufactured by M/s. Sainet Pvt. Ltd., Goa namely "fishnet" and which is classified under T.I. 68 i.e. all other goods not elsewhere specified is a distinct product generally and ultimately used by the fishermen for catching fish which is manufactured out of Nylon/ Cotton twine into fishnets by knotting process. Fishnets are not generally known as fabrics in the common trade parlance and are not used as such. They are manufactured on special type of machines where no knitting or weaving process is involved. Hence the correct classification would be under T.I. 68."

There are four infirmities which are pointed out to us in adopting this approach to the question. In fact, we would have expected the authorities concerned to have discussed the exact connotation of the term "fabrics" as used in Tariff Item No. 22. The reasons given by the Assistant Collector that it is manufactured out of twine is certainly erroneous. As we have observed above, that the twine itself is a kind of yarn or it is a special type of yarn. It is difficult to appreciate how it cannot include the clear words used in Tariff Item No. 22 which used the words "Man-made fibres" or "yarn".

17. The Collector also thought that fish-nets are not known as fabrics in the common trade parlance. We are afraid that this finding which is made by the Collector does not seem to be based on any evidence whatsoever which was led before him in the shape of affidavits or any other manner. Therefore this cannot be a correct way of looking to decide whether or not a particular product would fall within the Entry.

18. The Collector has also emphasised that it is not used as such. Perhaps he wanted to suggest that the user of the product is relevant to classify the goods of which description is given in the Schedule. We are afraid this criteria is absolutely unwarranted and irrelevant to find out whether a particular product falls in the description of goods given in the Schedule of the Central Excises and Salt Act, 1944. The fourth reason given by the Collector was that this special type of machine which is used in the manufacture of this net does not involve knitting or weaving process. We are afraid that this particular comment is not justified at all, because the very fact that a fabric is constituted by uniting together two materials interlaced together and it may be by any process. A fabric it must be understood is a woven material. The weaving may take any form of knitting, felting or even knotting.

19. The learned counsel then invited our attention to a judgment of the Supreme Court which has got a direct bearing on the question involved in this case. This judgment is reported in *Porritts and Spencer (Asia) Ltd. Vs. State of Haryana*, . In this case the Supreme Court was concerned with the determination of a

question whether dryer felts are textiles within the meaning of the expression in Item No. 30 in Schedule B of the General Sales Tax Act of Punjab. The Supreme Court while discussing what is textile, has observed as follows in para 5 :-

"There can, therefore, be no doubt that the word "textiles" in Item 30 of Schedule "B" must be interpreted according to its popular sense, meaning "that sense which people conversant with the subject-matter with which the statute is dealing would attribute to it".

The Supreme Court further observed :-.

"The word "textiles" is derived from the Latin "texere" which means "to weave" and it means any woven fabric. When yarn, whether cotton, silk, woollen, rayon, nylon or of any other description or made out of any other description or made out of any other, material is woven into a fabric, what comes into being is a "textile" and it is known as such...."

Then the Supreme Court further observed in the same paragraph at page 303 that :-

"The method of weaving adopted may-be the warp and woof pattern as is generally the case in most of the textiles, or it may be any other process or technique...

What is necessary is no more than weaving of yarn and weaving would mean binding or putting together by some process so as to form a fabric

The Supreme Court further observed in the same paragraph :-

"The use to which it may be put is also immaterial and does not bear on its character as a textile."

In fact, the Supreme Court was concerned with dryer felts and which actually inherently was a part of cloth which they manufactured. Felt itself, means a piece of cloth, but then the Supreme Court has discussed at length on this particular concept and observed that in determining the character of goods which fall under the particular Items of Tariff, the use to which it is put may not be relevant. In our opinion, in view of this observation of the Supreme Court, it would be difficult to sustain the judgment of the Assistant Collector.

20. In the same judgment it is also important to bear in mind that the Supreme Court has said at page 303 as follows :-

"It must be remembered that the concept of "textiles" is not a static concept. It has, having regard to newly developing materials, methods, techniques and processes, a continually expanding content and new kinds of fabric may be invented which may legitimately, without doing any violence to the language, be regarded, as "textiles"."

In our opinion, in view of the clear Observation of the Supreme Court, it would be difficult to say that if a material, in this case either man-made fibre or yarn

which is the constituent of a frame, if it is woven, knitted and felted, it must give rise to a fabric. The compounding of various laces intertwining either by way of knotting or knitting, involves a process of putting together. Once this process of putting together is complete a product which is formed is certainly a fabric in the common trade parlance. In our opinion, the word "fabric" which has been used in Tariff Item No. 22 is very clear.

21. Statutes which are imposing burdens are subject to the same rule of strict interpretation. However, the language cannot be strained. What is necessary is to look at merely what is clearly stated. Nothing is to be read in it or nothing is to be implied. One can only look to the language used. If we look in this background to the Entry, the Entry only states as follows :-

"Man-made fabrics means all varieties of fabrics manufactured either wholly or partly from man-made fibres or yarn."

Restricting ourselves to this portion of the Entry, three things are apparent- That the description given of man-made fabrics falls under the heading manufactured goods classified chiefly by material. The material here used is admittedly the yarn. Man-made fabrics, the word which is used as subject shows that it means all varieties of fabrics. In our opinion, the expression "varieties of fabrics" must include any material used in composing the fabric in the nature of a fabric. If a variety is in the nature of the fabric, that would also be included in the varieties of fabric. The expression "all" is an adjective which is used also cannot be easily overlooked. Secondly, it also includes fibres and yarn, wholly or partly manufactured. In the instant case it is undisputed that they are man-made and what is being used is also a twine which we have already observed is a special type of yarn. In our opinion without going to the discussion and giving the dictionary meaning of this word, the concept that fabric which has been embodied in this Entry clearly shows that a fishnet which is knotted and knitted and woven certainly falls within this Entry.

22. We may in fairness refer to certain authorities such as Encyclopaedia Britannica and also dictionary meaning of this word to support our conclusion. These authorities were cited by the Senior Counsel before us. A copy of a recital formula of Exhibit "B" was relied upon which says, industrial applications of nylon that the high strength, elasticity, abrasion resistance, and other characteristics of nylon contribute to its suitability for a wide variety of industrial fabrics, including air springs, belting, filter fabrics, fish net, twine, hose, wash nets, press covers, iron covers, paddings, parachutes, webbing, sewing thread, cordage coated fabrics, body armour or ballistic cloth, screening, felts, reinforced plastics, ropes, blend paper, papermakers' felts, tires, and the grey fabric used to back cloth to be roller printed.

23. Next the learned counsel also invited our attention to the dictionary meaning of the word "net" which in our opinion clinches the issue. As the Oxford Dictionary describes the word "net" as a fabric of twine, cord, hair, etc. In our

opinion as we have stated earlier, it is not strictly necessary to go through this dictionary meaning at all. In view of the fact that fabric must inherently involve some compound of material and once it is found that the material is woven and knitted into a form or shape brought out by this material, that would result in a compound called "fabric". In our opinion therefore the view of the learned Assistant Collector was vitiated by an error apparent on the record and therefore it was obligatory on this Court to intervene at this stage on the interpretation of words of entry of Tariff Item No. 22. Looking at the words and giving the ordinary, clear and significant meaning of the words used in Tariff Item No. 22, we hold that fishing nets are a fabric within Tariff Item No. 22 of the Central Excises and Salt Act, 1944.

24. In fairness we must refer to the arguments advanced by the counsel for the respondents. Relying on his return, wherein mainly it was contended that this particular twine is not a yarn at all. At three places in the return it is mentioned that the twine is not a yarn. In para 4 of the return which says that yarn where fishnet is man-made fabrics made of yarn, whereas fishnet is made of yarn and not a twine. Again in paragraph 5 it is stated further that it must be a fabric made of yarn, whereas a net is made of twine. Again in paragraph 10 of the return it is mentioned that these three types of yarn, twine and rope are identified separately and therefore it is said that this particular product cannot be said to be a fabric within the meaning of the Central Excises Act. We are afraid to accept this contention. With fear of repetition we must say, relying on the judgment of the Bombay High Court, it would be difficult to say that the twine is not a yarn when once this question is answered, then the defence of the respondents would be without any substance. Secondly, the learned counsel for the respondents then invited our attention to a judgment of the Supreme Court saying that it was reiterated in *Delhi Cloth and General Mills Co. Ltd. and Others Vs. R.R. Gupta, Commercial Tax Officer, Jaipur and Another*, and contended before us that the fabric which must include in the meaning of this Entry must be a textile fabric alone and since fishnet is not a textile it cannot be said to be a fabric. The learned counsel for the respondents invited our attention to paragraph 11 of the judgment of the Supreme Court and stated that the meaning of the term "textile" the Supreme Court was dealing with the case, given in the Oxford dictionary, is a woven fabric ; or any kind of cloth. It must acquire a body and a texture. Presumably it is not just the skeleton of a textile. Apparently, it is more than that. But it may also be said that in the technical and commercial parlance it is a "fabric".

25. In the earlier para 10, the Supreme Court has also considered the various meanings of the word "fabric" and in that paragraph the Supreme Court stated that the first example of the first meaning is a manufactured material; now only a textile fabric, a woven stuff. We are not concerned with the different meanings which were discussed and given. This authority does not in any way help the respondents to say that the word "fabric" used in Entry No. 22 does not cover the fish-nets at all. In fact, it was not for consideration before the Supreme Court

at all. The learned counsel for the respondents however maintained that if we look to the entries under Tariff Items 16 to 22, they must mean and they must be interpreted to mean that all these products or all these goods must be by its nature textile. As we have observed earlier the word "textile" is not defined in the Act. The Supreme Court had an occasion to consider this concept of textile in the authority referred to above. In our opinion, giving the widest meaning to the word "textile" as the Supreme Court has done in that case which we have referred to earlier, we are afraid that this contention cannot be accepted and will have to be rejected.

26. Thirdly, the learned counsel for the respondents, then attempted to make a distinction between the process of knitting and knotting by stating that knotting does not amount to weaving at all. This argument we are only mentioning to reject the same, because, in fairness, after seeing the material sample before us we are satisfied that knotting is an another way of knitting. In fact, we have also seen the meaning of the word "knot" which only means uniting together. We fail to see how knotting cannot be included in the wider meaning of weaving and felting. This argument is without substance and will have to be rejected merely because no other material is involved or the knotting process does not involve a similar process of weaving or knitting. In this case the seminal material which is the basis of the fabric, is subjected to the process of weaving so it is a material, as the material is interlaced, intertwined and put together. In our opinion putting together may be by any means, or method, it may be by weaving or it may be by knotting also. Therefore, this argument of the learned counsel for the respondents does not stand either in law or on facts.

27. Lastly, in fairness, we must also mention here that an attempt was made by the learned counsel for the respondents to rely on certain affidavits in order. to emphasise that a true meaning given by persons in the trade or commerce should be adopted in interpreting the Entries and no dictionary meaning or meaning of authorities of authentic text books should be what is understood by the persons conversant with the trade in that particular branch. In our opinion, there is no basis to accept this argument at this stage. The impugned order does not refer to any such material being used by the Collector in deciding this particular aspect, except with a cryptic observation that in the common trade parlance they are not used as such. There was no further material which seems to have been examined by the Collector. We also do not find from the impugned order that any attempt was made by the Government to bring these facts. In view of the limited challenge which was given before us for the interpretation of the Entry, we do not think that this point would be available to the counsel for the respondents. Therefore we have refused to entertain this particular objection in regard to the interpretation of the Entry in this case. It is not necessary to refer to certain authorities which were referred to us because it is well settled that when the general entry covers a particular material or product, a recourse to Tariff Item No. 68 would be unjustified. This is a house of last resort and therefore if a particular product falls in a general Entry as we have said in this

case, it falls under General Entry No. 22, then it is not correct to have recourse to Item No. 68 which is in the form of a residuary entry.

28. We need not deal with this subject any further.

29. Suffice to say that the word "fabric" falls under Tariff Item No. 22 of the Central Excises and Salt Act, 1944. The judgment of the Assistant Collector invoking Tariff Item No. 68 to include, is wrong and illegal and therefore it is set aside. In the result we set aside the Order of the Collector dated 21st June, 1982 and declare that fish-nets which are produced by the Company are fabrics within the meaning of Tariff Item No. 22 of the Central Excises and Salt Act of 1944.

30. In the result, the petition is allowed. Rule is made absolute. No order as to costs.

31. The counsel for the respondents asked for leave to appeal to the Supreme Court. As we have followed the judgment of the Supreme Court, leave refused.