
(1974) 06 GUJ CK 0004
In the Gujarat High Court
Case No : Sales Tax Reference No. 5 of 1973

Scientific and Glass Laboratories	Vs	APPELLANT
The State of Gujarat		RESPONDENT

Date of Decision : 21-06-1974

Acts Referred:

Citation : (1974) 34 STC 418

Hon'ble Judges : T.U. Mehta, J;J.B. Mehta, J

Bench : Division Bench

Advocate : S.L. Mody and N.I. Mody, for the Appellant; G.N. Desai, Government Pleader and H.V. Chhatrapati, of Bhaishanker Kanga and Girdharlal, Additional Government Pleader, for the Respondent

Judgement

T.U. Mehta, J.—The question involved in this reference is whether glass "ampules" are "bottles" within the meaning of entry No. 6(vii) of Schedule C of the Bombay Sales Tax Act, 1959 (which is hereinafter referred to as the "Act"), or whether they are covered by the residuary entry No. 22 of Schedule E of the Act.

2. The facts which give rise to this question are that the petitioner is a partnership-firm duly registered as a dealer under the Act. Its business is to manufacture and to sell ampules. During the assessment for the financial years 1964-65, 1965-66 and 1966-67, the Sales Tax Officer held that the empty ampules sold by the petitioner-firm were covered by entry No. 6(vii) of Schedule C of the Act. He, therefore, taxed the turnover accordingly. It is found that the Assistant Commissioner of Sales Tax thereafter proposed to revise the assessment orders passed by the Sales Tax Officer and issued notices to the petitioner-firm calling upon it to show cause why the ampules sold by it should not be held as covered by entry No. 22 of Schedule E of the Act and be taxed accordingly. The petitioner-firm appeared before the Assistant Commissioner, Sales Tax, and contended that the ampules manufactured and sold by it are bottles designed for packing medicines and liquid injections and, therefore, they

were covered by entry No. 6(vii) of Schedule C of the Act and, therefore, they were correctly assessed and taxed by the Sales Tax Officer. The Assistant Commissioner negated this contention of the petitioner with the result that the petitioner approached the Appellate Tribunal, but there also the petitioner lost. The petitioner has, therefore, preferred this reference in which the Tribunal has referred the following question for our opinion :

"Whether, on the facts and in the circumstances of the case, ampules sold by the applicant-firm are covered by entry No. 6(vii) of Schedule C to the Bombay Sales Tax Act, 1959 ?"

3. The facts of the case show that the ampules manufactured by the petitioner-firm are empty containers which are purchased from the petitioner-firm for the purpose of filling injections and liquid medicines. The petitioner-firm manufactures these ampules by keeping one end thereof open but the purchasers, after filling the injections or liquid medicines, hermetically seal these ampules by giving them some temperature. Thus, after sealing, the ampules can be opened only by breaking one of its ends.

4. The question which falls for consideration is whether such ampules, which are manufactured by the petitioner-firm, can be called "bottles". Entry No. 6(vii) of Schedule C is in the following terms : "6. (vii) Empty bottles and corks." This entry is put in the main entry No. 6, which also contains various types of packing materials such as gunny bags and hessian, jute twine, brown paper and other paper adopted for use in packing goods, cardboard boxes and cartons, empty tins and empty barrels, wooden boxes and tin boxes, polythene packing materials and paper labels.

5. In order to seek an answer to the disputed question it is first necessary to see what is the dictionary or the scientific meaning which can be given to the word "bottle". Encyclopaedia Britannica describes the word "bottles" as under : "Narrow-necked rigid or semi-rigid containers to hold liquids or semi-liquids." It further states that it includes allied container forms, such as jars, tumblers, jugs, vials, ampules and carboys. It says that the material most commonly used in making bottles and these other containers is glass, although plastics have become increasingly important. This is the scientific meaning which is given to the term "bottles". But that meaning is obviously wide enough to include various types of containers. Now when we are considering a taxing statute such as sales tax, the meaning which is carried by a particular commodity mentioned in different schedules of the Act, would be that meaning which is attributed to it in the commercial world. The principle, which is followed by various decisions of the Supreme Court right from *Ramavatar Budhaiprasad Etc. Vs. Assistant Sales Tax Officer, Akola*, is that if the taxing statute does not give any statutory meaning to a word, that word should be given its popular meaning, i.e., the meaning which is attributed to it in common parlance by people who daily deal with it as consumers or dealers in the market. The reason for this rule is that the sales tax concerns itself with commercial goods and, therefore, these commercial goods

should be attributed with that meaning which is generally attributed to it in the market by the persons who are daily dealing with it. Under the circumstances, purely scientific meaning, which is theoretical and which is given from a scientific point of view to a particular article, would be of no help to use in ascertaining whether the article in question falls within the purview of a particular entry. This particular principle is followed even by the decision of the Supreme Court in *Commissioner of Sales Tax, Madhya Pradesh Vs. Jaswant Singh Charan Singh*, on which Shri Mody, appearing on behalf of the petitioner, has put reliance. In *Commissioner of Sales Tax, Madhya Pradesh Vs. Jaswant Singh Charan Singh*, , the question was whether "charcoal" was included in the word "coal" specified in entry 1 of Part III of Schedule II to the Madhya Pradesh General Sales Tax Act, 1958. Their Lordships of the Supreme Court have observed in that case that while interpreting items in statutes like the Sales Tax Acts, resort should be had not to the scientific or technical meaning of such terms but to their popular meaning or the meaning attached to them by those dealing in them, that is to say, to their commercial sense. This principle is also reiterated by the Supreme Court in a comparatively recent decision given in *Commissioner of Sales Tax, U.P. Vs. S.R. Brothers, Kanpur*, ; *Commissioner of Sales Tax, U.P. Vs. S.R. Brothers, Kanpur*, , wherein their Lordships have been at pains to point out that while interpreting the words of the schedule, there should not be any straining of the language and that it is only the meaning which is attributed to the disputed word in the commercial parlance which should be given to it.

6. Now, if we apply this test, the question is whether if a dealer in such articles goes to make purchases in the market what inquiry would be made by him. Suppose he wants to purchase containers in the form of glass bottles and asks for the same would he get glass ampules ? Conversely suppose he wants to purchase glass ampules, would he be supplied with glass bottles ? It is found that glass bottles and glass ampules connote totally different articles in the commercial world. Glass bottles are manufactured in a particular manner so that the opening of the bottle can be closed by a cork or a stopper. So far as the glass ampules are concerned, they are hermetically sealed and cannot be opened except by breaking the said seal. Under these circumstances, it cannot be contended that in the commercial world glass ampules are known as glass bottles. Therefore, applying this test, which is supplied by the Supreme Court in *Ramavatar Budhaiprasad Etc. Vs. Assistant Sales Tax Officer, Akola*, , we find no hesitation in holding that glass ampules are not bottles, which are referred to entry No. 6(vii) of Schedule C.

7. There is another test which is the inherent test supplied by entry No. 6(vii) itself. As already noted above, this entry speaks of "empty bottles and corks". It is significant to note that the word "cork" is not put in any separate sub-entry but is put along with the empty bottles. The intent of the legislature in providing sub-entry (vii) in this manner is quite evident, because, by not giving a separate sub-entry to the word "corks" and putting the word "corks" along with the words "empty bottles", the legislature has provided some clue. What the legislature has

conveyed by this entry is that empty bottles with or without corks would fall within sub-entry (vii) of entry No. 6. But the placing of the word "corks" along with the words "empty bottles" supplied to us some inherent evidence which would help us in arriving at the proper conclusion on the question whether the ampules, which are manufactured by the petitioner-firm, are included in the word "bottles". The collocation of these words used in sub-entry (vii) of entry No. 6 of Schedule C attracts the principle of *noscitur a sociis*, which means that where the meaning of a particular word is of a wider import, the legislative intent should be ascertained by reference to adjoining words in connection with which the disputed word is used, because such adjoining words lend their color and meaning to the disputed word. If this principle is applied, it would be evident that the bottles, which are stipulated by sub-entry (vii) of entry No. 6, are those which may be with or without corks, the opening of which can be closed with the help of a cork. Surely, the ampules are not bottles of this type.

8. Taking into consideration the above-referred two tests, we find that the Appellate Tribunal was correct in its finding that the ampules manufactured by the petitioner-firm do not fall within entry No. 6(vii) of Schedule C. Therefore, our answer to the question, which is referred to us by the Tribunal, is in the negative. The reference is accordingly disposed of, and it is ordered that the petitioner-firm shall bear the costs of the respondent-State.

9. Reference answered accordingly.