
(1977) 12 MAD CK 0036

In the Madras High Court

Case No : Tax Case No. 300 of 1975 (Appeal No. 11 of 1975)

S.R. and Company

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 14-12-1977

Acts Referred:

Tamil Nadu General Sales Tax Act, 1959 — Section 17, 37

Citation : (1978) ILR (Mad) 340 : (1978) 42 STC 99

Hon'ble Judges : P.Govindan Nair, C.J.;Vardarajan, J

Bench : Division Bench

Advocate : N. Varadarajan, for the Appellant;

Final Decision : Allowed

Judgement

P.Govindan Nair, C. J.

1. The question arising in this appeal from an order of the Board of Revenue u/s 37 of the Tamil Nadu General Sales Tax Act is whether the three publications styled as "Indian Overseas Bank Review", "Ninth Annual Number-1967-68" published by the Indian Institute of Technology, Madras, and the Souvenir in relation to the 14th Annual Sports Meet, 1968, of the T. I. Cycles Sports and Recreation Club, Ambattur, will fall under item 22 of the schedule to the notification issued u/s 17 of the said Act to be effective from the 1st day of April, 1959. The Appellate Assistant Commissioner held that books are covered by item 22 of the schedule. The Board of Revenue in suo motu revision set aside the decision of the Appellate Assistant Commissioner and held that the books will not fall within that item.

2. It is unnecessary to refer to Section 17 which grants the power to the Government to exempt any class of goods from tax, either wholly or partly, for nothing turns on the wording of that section. The preamble to the notification is also unimportant because it does not use any expression therein which can throw light on the meaning to be given to the words appearing in item 22 of the

schedule. We shall, therefore, extract only item 22 of the schedule to the notification :

22. Sales of reading books including text-books by any dealer.

3. The expression used in the various notifications in this regard have not been uniformly worded and the decision turning on the words used in a particular notification also ranges from a liberality of attitude as seen from the pronouncement of the Andhra Pradesh High Court in the decision in *Govindaswamy Binding Works v. State of A. P.* [1972] 29 S.T.C. 219, to a very narrow view that has been expressed by the Kerala High Court in the decision in *Swaraj Printers v. State of Kerala* [1973] 31 S.T.C. 559. The Andhra Pradesh High Court had to consider the words "all books and periodicals" occurring in a notification and the question was whether account books and note-books would fall under that expression. The Andhra Pradesh High Court held that the expression "book" itself is comprehensive enough to take in all kinds of books and the word "all" will make it abundantly manifest and plain that the notification was issued to cover all cases of sales of books and is not restricted in its application to books of literary material or other kinds of reading material.

4. We will now turn to the decision of the Kerala High Court in *Swaraj Printers v. State of Kerala*¹, wherein it was considered whether the catalogue of sale by auction of products like tea dust, annual report of Indian Chamber of Commerce and annual statements of accounts and a publication called "Tea Review" would fall within the ambit of the expression "books meant for reading and reference" occurring in the notification u/s 10 of the Kerala General Sales Tax Act and it was held that the publications referred to will not fall within that expression. The view was expressed that the expression "books meant for reading or reference" used in the notification must be meant for reference for the public for education, knowledge, enlightenment or recreation. We are not called upon to decide about the correctness of this decision though, with great respect, we are inclined to think that a very narrow view had been taken by the Kerala High Court in construing the words "books for reading and reference" in the particular notification. There is a decision of this court in *State of Madras v. M. P. Rajan and Company* [1973] 32 S.T.C. 256 dealing with the particular words and the particular notification with which we are concerned. It was held therein that copying books will not fall within the expression "reading books including text-books".

5. Similarly, the Allahabad High Court, in the decision in *Industrial and Commercial Service v. Commissioner of Sales Tax* [1963] 14 S.T.C. 299, when it construed the word "books" in Section 4 of the U.P. Sales Tax Act, held that when the section stated "books including magazines, catalogues", etc., the word "books" must have a limited meaning because if it had the wide meaning that can be attributed to the word "books", then there was no need whatever to have certain books which would be books stated to be expressly included within the word "books". It was, therefore, held that the word "books" in the section must

have a limited meaning. This also, if we may say so with respect, is a rule of interpretation that is at times resorted to.

6. Those decisions are not of much value excepting the decision of this court in *State of Madras v. M. P. Rajan and Company* [1973] 32 S.T.C. 256, to which we have made reference, to decide the question before us. The words used, namely, "reading books including text-books", if we may say so, are not happily worded in its first part. We should understand "reading books" as "books for reading" which would also mean books meant for reading. This we think is a reasonable view to take on the words used. If we adopt that view, there may be various types of books which would not fall within the expression "books for reading" such as diaries or copying books and similar books which, in the widest amplitude of the word "books", may fall within, that expression. The limitations that have been introduced in interpreting the words in item 22 of the schedule to the notification must be those arising from the words used in that item. Such limitations must, therefore, flow exclusively from the qualification of books as those meant for reading and nothing else. We have indicated earlier in this judgment that neither Section 17 of the Act under which the notification was issued nor the preamble to the notification gave any indication whatever which necessitate further restrictions being given to the expression "books". We have, therefore, no hesitation in coming to the conclusion that books meant for reading would fall within item 22 of the schedule to the notification. Whether the books would be read by the general public at large or only by a section of the public is of no moment. There may be persons who are interested in sports who may read very many books on a particular game which others may not care to open. There may be books on abstract subjects which also would be read by even more limited classes of persons and to say they are not reading books as explained by us as meaning "books for reading" would be to give an unnecessarily limited meaning to item 22 as it is worded, which is unjustified. No doubt, dealing with an exemption the assessee relying on that exemption will have to prove that the exemption applies in order to get the benefit of the exemption ; but this does not mean that we must give a greater restriction to the natural meaning which arises from the words used in the notification. It is a well-known principle that when a legislature or a rule-making authority speaks, we must gather its meaning and what was intended primarily and in the first instance from the words used. There are several refinements to this aspect and one of those is that words used in a taxing statute must be understood in their natural sense and not, according to any technical sense, a principle too well-established to need quoting of authority. We do not see why the same principle must not be applied to an exemption notification, for, a taxing statute itself has to be construed according to its words and before the revenue can tax a person, the revenue has to establish that the tax falls within the four corners of the statute; in other words, within the import of the statute as stated by the words used in the statute. The same principle must apply to an exemption and we have to take the ordinary meaning of the words "reading books". "Reading books" is not, as we said, a happy expression

because it does not appear to be a very proper way of stating what was meant. That is why we stated that what is meant is "books for reading" which are the words used in the notification in Kerala. No other meaning can be given to it. Under this expression will not fall many books in the general sense of the term "books", because the notification itself qualified "books" by indicating that books are those meant for reading. We have already given two illustrations that will not fall under that category and we can mention a third one like a picture book. It is not correct to say that when we look at pictures in a book, we are reading the books. A picture book may not, therefore, fall within the expression "reading books". But we do not wish to commit ourselves on this aspect and would be content with the first two exemptions, one which was upheld by this court and the other also held to be outside the similar notification by another decision.

7. In the light of the above, the order of the Board of Revenue cannot stand. We, therefore, set aside the same and allow this revision with costs and hold that the publications already referred to are items which would fall under item 22 of the schedule to the notification. The appellant will have its costs from the revenue including counsel's fee of Rs. 250.