

(1976) 08 P&H CK 0023

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 642 of 1973

State of Haryana and Others

APPELLANT

Vs

Nanu Mal Amar Nath

RESPONDENT

Date of Decision : 02-08-1976

Acts Referred:

Punjab General Sales Tax Act, 1948 — Entry 30 Schedule B

Citation : (1977) 39 STC 497

Hon'ble Judges : O. Chinnappa Reddy, Acting C.J.; Surinder Singh, J

Bench : Division Bench

Advocate : H.N. Mehtani, Deputy A.G, for the Appellant; Vinod Sharma, for the Respondent

Final Decision : Allowed

Judgement

Surinder Singh, J.—Shorn of niceties, the blunt question for consideration in this appeal Under Clause X of the Letters Patent is the connotation of the word "carpet" as used in the Punjab General Sales Tax Act (hereinafter referred to as the Act). The respondent-firm is a manufacturer of woollen goods, like blankets, shawls, etc. and also deals in the purchase and sale of cotton bed sheets. They are registered dealers under the Act.

2. According to entry 30 of Schedule B to the Act, as applicable to the State of Haryana, an exemption has been granted for all varieties of cotton, woollen or silken textiles, but items like carpets, druggets, woollen dures and cotton floor dures have been excluded from this exemption. The relevant entry is reproduced below for facility of reference:

30. All varieties of cotton, woollen or silken textiles including rayon, artificial silk or nylon, whether manufactured by handloom or powerloom or otherwise but not including pure silk fabrics, carpets, druggets, woollen dures and cotton floor dures.

3. The Assessing Authority, while considering the case of the respondent for the

year 1968-69, noticed that in the account of sales of textiles, a deduction had been claimed in respect of sale of carpets by showing the same in the entry of bed sheets. When called upon to explain this fact, the respondent took up the stand in the first instance that the item was bed sheets and had been shown under the said entry. Later on, by written arguments, it was urged that the commodity was meant for spreading over a bed or over a duree which is already spread on the floor and as the same was never used independently on the floor, it should not be deemed as a carpet. The contention did not meet favour with the Assessing Authority on account of two reasons, namely, that the dealer had himself named the commodity in the cash-memos issued by him as carpets and not bed sheets and, secondly, because the dealer had admitted that the commodity was normally sold in the market under the name and style of carpet. The Assessing Authority also held that the texture of the article was so heavy that it could not normally be used for spreading on the bed, but was in fact meant for spreading on the floor as a carpet. The authority further repelled the contention put forth on behalf of the respondent that as the disputed commodity was generally spread over the floor over a duree, it should not be deemed to be a carpet. Thus, the claim for tax-free sales relating to the carpets amounting to Rs. 28,605.47 was disallowed along with some other items, with which we are not concerned in this appeal.

4. The respondent went up in appeal before the Deputy Excise and Taxation Commissioner (Appeals), Ambala, who, while agreeing with the interpretation placed by the Assessing Authority upon the word "carpet", dismissed the appeal, vide order annexure B to the writ petition. A second appeal was carried by the assessee before the Sales Tax Tribunal, Haryana, but again without success. The commodity in question was thus determined by all the taxation authorities to be carpet on account of the reasons already noticed above.

5. The respondent towed his grievance to this court by means of a writ petition (Civil Writ No. 3166 of 1971). A learned single Judge of this court, after examination of a small piece, stated to be a sample of the disputed commodity and relying on the dictionary meaning of the word "carpet", concluded that the commodity examined in the court could not be treated as a carpet and that in any case it is a fit case in which benefit of doubt should be given to the citizen. The writ petition was, therefore, allowed. The State of Haryana lost no time to approach this court in appeal and this is how the matter is before us.

6. Let us catch the bull by the horns. The definition of the word "carpet" as noticed by the learned single Judge in the Reader's Digest Great Encyclopaedic Dictionary, is as below :

Carpet: Thick fabric for spreading on floor or stair, commonly of wool, freq. patterned in colours and made by knotting short lengths of yarn on to the warp threads of a fabric during weaving, or by same means as tapestry, or by various mechanical weaving processes.

The learned Judge was of the view that two conditions must be fulfilled before a thick fabric could be styled as a carpet, namely, that it should be used for spreading on floor or stairs and, secondly, it should be patterned in colours and made by knotting short lengths of yarn on the warp threads of a fabric during weaving. It appears, however, that the remaining two alternatives, as mentioned in the dictionary meaning itself, escaped notice of the learned Judge. In the said meaning various mechanical weaving processes have also been accepted for bringing the commodity within the definition of the word "carpet". On examination of a short length of the commodity produced in the court, the learned Judge found that two lengths of thick cloth had first been sewn together and then some flowery patterns had been woven on it by mechanical means. This should have immediately attracted the application of the last part of the dictionary meaning. In any case, it may be observed that though recourse may be had to the plain dictionary meaning of the terms used in the statute, when those terms are not specifically defined therein, it must be kept in view that dictionaries are sometimes delusive guides in the construction of statutory terms. As Lord Coleridge said, in *R. v. Peters* (1886) 16 Q.B.D. 636:

I am quite aware that dictionaries are not to be taken as authoritative exponents of the meanings of words used in Acts of Parliament, but it is a well-known rule of courts of law that words should be taken to be used in their ordinary sense and we are therefore sent for instruction to these books.

In dealing with matters relating to the general public, statutes are presumed to use words in their popular, rather than their narrowly legal or technical sense : "loquitur ut vulgus, that is, according to the common understanding and acceptation of the terms" : Maxwell on The Interpretation of Statutes, Twelvth Edition, page 81.

7. The description of the commodity, as seen by the learned single Judge, the fact that it was described by the assessee himself as carpet and his own admission that the commodity was generally used for spreading on the floor (even though above a duree placed below) all lead to the same conclusion as arrived at by the taxation authorities that the commodity in question is covered by the term "carpet". We also feel that in view of the dictum of the Supreme Court in *Karam Chand Thapar and Bros. P. Ltd. Vs. Commissioner of Income Tax, (Central), Calcutta*, , it was not permissible for the learned single Judge to disturb the finding of fact consistently arrived at by all the taxation tribunals in this behalf, nor was there any occasion for affording a benefit of doubt to the respondent.

The appeal succeeds and the order of the learned single Judge dated 20th July, 1973, is set aside. Civil Writ Petition No. 3166 of 1971, in which the said order was passed, stands dismissed. There will, however, be no order as to costs of the appeal.