(1989) 05 P&H CK 0002

In the Punjab And Haryana At Chandigarh

Case No : General Sales Tax Reference No. 19 of 1982

State of Haryana APPELLANT

Vs

M/s. Gopal Dass Manohar Lal, Rewari RESPONDENT

Date of Decision : 24-05-1989

Acts Referred:
Central Sales Tax Act, 1956 — Section 14(iii)

Citation : (1989) 05 P&H CK 0002

Hon'ble Judges : Sukhdev Singh Kang, J;J.S. Sekhon, J

Bench : Division Bench

Advocate : S.K. Sood, DA Hy, for the Appellant; H.L. Sarin (Mr. Ashish Handa and Mr. Pankaj Sharma), for the Respondent

Judgement

Sukhdev Singh Kang, J.—This judgment will dispose of G.S.T. Ref. Nos. 19 and 21 of 1982 as they raise common question of law.

2. It is not necessary to recount the facts in detail, because the forensic issue arising in these cases stands concluded against the Revenue by a recent decision of the apex Court in State of Tamil Nadu Vs. Mahi Traders and Others, It will suffice to refer to a few salient facts from G.S.T. Ref. No. 19 of 1982.

3. M/s. Gopal Dass Manohar Lal, Rewari (hereinafter referred to as the ''dealer'') claimed before the Assessing Authority that the sale of leather attracted tax at lower rates, because it is covered by the expression "hides and skins whether in a raw or dressed state" as declared goods of special importance in inter State trade or commerce under Clause (iii) of Section 14 of the Central Sales Tex Act. 1956 (hereinafter referred to as the ''Act''). This prayer was fumed down by the Assessing Authority, Aggrieved by the order of the Assessing Authority, the dealer went up in appeal. It was rejected by the Deputy Excise and Taxation Commissioner (Appeals). Rohtak Circle, principally relying on a decision of the Sales Tax Tribunal, Haryana dated January 2, 1975 in the case of M/s. Liberty Shoes Emporium, Karnal, wherein it had been held that the term "leather" was not included in the expression "hides and skins" as declared goods of special

importance under Clause (iii) of Section 14 of the Act. Still dissatisfied, the dealer filed a second appeal It was allowed by the Sales Tax Tribunal, Haryana, and it was held mainly on the basis of a clarification issued by the Central Government that leather of different types was included within the expression "bides and skins" and is covered under Clause (iii) of Section 14 of the Act and was exigible to tax at the rate applicable to the declared goods. On an application filed by the Excise and Taxation Commissioner, Haryana, the Tribunal has referred the following question for our opinion:

Whether ''leather'' is covered by item (iii) of Section 14 of the Central Sales Tax Act, 1916 and is thus an item of declared goods within the meaning of Section 14 ibid?

4. It is not necessary to examine the issue on principle because the question already stands answered by the ratio of the decision of the apex Court in Mahi Traders case (supra). After examining the literature and various text books on the subject, their Lordships observed:

XXX XXX These processes need not be gone into in detail but the passages relied upon clearly show that hides and skins are termed ''leather'' even as soon as the process of tanning is over and the danger of their putrefaction is put to an end to. The entry in the CST Act, however, includes within its scope hides and skins until they are ''dressed''. This, as we have seen, represents the stage when they undergo the process of finishing and assume a form in which they can be readily utilised for manufacture of various commercial articles. In this view, it is hardly material that coloured leather may be a form of leather or may even be said to represent a different commercial commodity. The statutory entry is comprehensive enough to include the products emerging from hides and skins until the process of dressing or finishing is done.

Their Lordships further held that ''splits'' and ''coloured leather'' continue to be hides and skins eligible for special treatment under the Central Sales Tax Act.

5. Respectfully following the above dictum, we answer the question framed in the affirmative.

Sd/- Jai Singh Sekhon, J.

