

(1960) 01 MP CK 0010

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No. 131 of 1958

The State of Madhya Pradesh

APPELLANT

Vs

R.R. Contractor and Co.

RESPONDENT

Date of Decision : 09-01-1960

Acts Referred:

Madhya Bharat Sales Tax Act, 1950 — Section 13

Citation : (1961) JLI 967 : (1962) 13 STC 208

Hon'ble Judges : P.V. Dixit, C.J.; K.L. Pandey, J

Bench : Division Bench

Advocate : H.L. Khaskalam, A.G.A, for the Appellant; A.P. Choubey, for the Respondent

Judgement

P.V. Dixit, C.J.—This reference u/s 13 of the Madhya Bharat Sales Tax Act, 1950, by the Commissioner of Sales Tax relates to. the assessment of sales tax during the assessment year 1953-54 on the assessee Messrs R. R. Contractor & Co., Indore. The three questions which the Commissioner has formulated and referred to this Court for decision are :-

(1) Whether washer is an article for the purpose of item No. 32 of Schedule No. 3 of the Madhya Bharat Sales Tax Act.

(2) Whether leather belts are articles for the purpose of item No. 32 of Schedule No. 3 of the Madhya Bharat Sales Tax Act.

(3) Since kerosene is exempted from Madhya Bharat Sales Tax, and since kerosene is purchased in tins and sold in tins whether these tins are exempted from sales tax.

2. The taxing authorities have taken the view that the sales tax payable by the assessee on leather washers and belts sold would be according to item No. 32 of Schedule No. 3 issued u/s 5 of the Act. According to this schedule, the sales tax payable on sales of leather goods of all kinds is Rs. 6-4-0 ad valorem per cent. The assessee contended that as washers and leather belts sold by it were parts

of machinery, the sales tax leviable was under item No. 16 of Schedule No. 4 issued u/s 5 of the Act, The rate of sales tax payable in respect of sales of machinery, component parts of machinery and spare parts is Rs. 3-2-0 ad valorem per cent. On this contention, the Commissioner asks us to say whether washers and leather belts are leather articles for the purpose of item No. 32 of Schedule No. 3. The real point raised by the first two questions referred to for decision by the Commissioner is not merely whether washers and leather belts which are admittedly of leather are or are not leather goods. It is whether these articles are component parts of machinery. The assessee made no attempt to show that the nature of these articles was such that they could not but be regarded as component parts or spare parts of any machinery. The question whether washers and leather belts are or are not spare parts or component parts of machinery has to be decided having regard to the meaning of the word "machinery" and of the words "spare parts" and "component parts" and to the nature and type of the articles. The Privy Council pointed out in *Corporation of Calcutta v. Chairman of the Cossipore and Chitpore Municipality* AIR 1922 P.C. 27 that there was a great danger in attempting to give a definition of the word "machinery" which would be applicable in all cases. Their Lordships, however, added that if they "were obliged to run the hazard of the attempt they would be inclined to say that the word "machinery" when used in ordinary language *prima facie* means some mechanical contrivances which by themselves or in combination with one or more other mechanical contrivances, by the combined movement and interdependent operation of their respective parts generate power, or evoke, modify, apply or direct natural forces with the object in each case of effecting so definite and specific a result." The assessee should have produced the necessary material before the taxing authorities to show that having regard to this general definition of "machinery" and to the type and nature of the washers and leather belts sold they could not but be regarded as spare or component parts of machinery. In the absence of any such material, it is not possible for us to answer the first two questions referred to us and we decline to do so.

3. The answer to the third question is to be found in the decision in *Messrs Govindram Ramprasad v. The Assessing Authority (Sales Tax)* [1957] M.P.C. 286, where also a similar question was raised.

4. In the circumstances we make no order as to costs.