(1967) 04 MAD CK 0022

In the Madras High Court

Case No : Tax Case No''s. 164 and 283 of 1964 (Revision No''s. 107 and 193)

The State of Madras APPELLANT

Vs

T.T. Gopalier and Another RESPONDENT

Date of Decision : 19-04-1967

Acts Referred:

Citation : (1969) 21 STC 451

Hon'ble Judges : Srinivasan, J;Ramakrishnan, J

Bench : Division Bench

Advocate : The Additional Government Pleader, for the Appellant; T.V. Balakrishnan and S. Mathrubutheswarar, for the Respondent

Final Decision : Dismissed

Judgement

Ramakrishnan, J.—The respondents in these two revision cases are different, but they were heard together because a common question of

interpretation arises in them. The respondent in T.C. No. 164 of 1964 is T.T. Gopalier, a dealer in braided cord, and the respondent in T.C. No.

283 of 1964 is the Madurai Braided Cord and Tape Producers Co-operative Industrial Society Limited, also a dealer in a similar commodity as

well as tape. For the year of assessment they claimed exemption from assessment on their sales of ""braided cord"", relying for the purpose on entry

4 in the Third Schedule of the Madras General Sales Tax Act, 1959, which is in the following terms:

All varieties of textiles (other than durries, carpets, druggets and pure silk cloth) made wholly or partly of cotton, staple fibre, rayon, artificial silk or

wool including handkerchiefs, towels, napkins, dusters, cotton velvets and velveteen, tapes, niwars and laces and hosiery cloth in lengths.

2. The view of the department was that the assessee''s products would not fall within the scope of the above entry. But the Sales Tax Appellate

Tribunal, in the appeals before them, considered that the above sales fell within the entry mentioned above and granted to the assessees exemption

from assessment on the sales of braided cord. Against this decision the Government of Madras has filed the present revision cases.

3. We have been shown samples of the product in question. They seem to have been fabricated out of specially imported machinery and what is

involved in the process of manufacture is braiding of different threads into a single finished product, which, in most cases, has the appearance of a

string or cord. In some cases the resultant product is cylindrical in shape but there are also cases where they are flattened. But the pattern of their

manufacture is one which involves braiding of individual threads by machinery to form a single well-knit whole, whether it be in the form of a round

string or a flattened tape-like structure. The department relied upon the wording of the names of the different articles in the entry, and in particular

the word ""laces"", for holding that braided cords are not laces, and therefore would not fall within the scope of the exemption. We are of the

opinion that there is a confusion of thought involved in this approach. No doubt, the entry refers to ""laces"", but ""laces"" have got a well-known

commercial meaning in textile trade. Funk & Wagnull''s Dictionary defines ""lace"" as :

A delicate open work fabric or net work of threads of linen, silk, cotton, metal or the like, usually ornamented with in-wrought or applied figures or

patterns. It is made both by hand and by machinery.

4. But these braided cords are certainly not laces in the above sense. The entry, however, is in general terms and refers to varieties of textiles.

Handkerchiefs, towels etc., including laces, are given only as illustrations by means of an inclusive definition. But the exemption granted being to ""all

varieties of textiles"" is given in very general terms. The real question for our consideration therefore is whether braided cord is a variety of textiles.

The entry excludes certain products like durries, carpets etc., but it is clear that braided cord does not come under the articles excluded.

5. Therefore, one has to address oneself to the question whether braided cord is really a textile for the purpose of the entry. ""Textile"" is defined in

the above dictionary, as woven fabric or material suitable for weaving. The term ""weaving"" will include also weaving of threads into interlocking

patterns. It cannot necessarily be restricted to weaving on a loom, using the warp and woof patterns of thread. Any form of using threads so as to

evolve a pattern and make them into a product of utility will fall within the definition of ""weaving"". Our attention was drawn in this connection by the

learned counsel appearing for the assessees to an earlier decision of this Court of Jagadisan, J., in Subbaier v. R.P.F. Commissioner AIR 1963

Mad. 112. where a similar product came in for consideration. The learned Judge referred to the meaning of the word ""textile"" according to the

Oxford Dictionary, as ""of weaving"" or ""woven""; ""suitable for weaving"". He held that braided cord will be a product of weaving. He had in that case

to interpret the explanation to Schedule I of the Employees'' Provident Fund Act, which defined ""textile"" as cording, weaving, finishing and dyeing

etc. But the broad meaning of ""textile"" as interpreted in that decision would also apply, in our opinion, to the word ""textile"" used in the entry in the

Third Schedule of the Madras General Sales Tax Act in the sense of a product obtained by weaving, whether it be by weaving thread into braided

patterns, as in this case, or any other pattern, which will lead to the production of towels, handkerchiefs, napkins etc.

6. Before we conclude this judgment we refer to the fact that the Tribunal, in disposing of the matter adopted a somewhat different approach.

Differing from the department''s view it found that braided thread would fall under the category of ""laces"" mentioned in entry 4 of the Third

Schedule. For that purpose it referred to the definition of ""lace"" in the Chambers''s Twentieth Century Dictionary, as an article which includes

plaited string for fastening"" besides ornamental fabrics of linen, cotton, silk etc., to which we have referred earlier. But it appears to us that it is the

more ordinary meaning of ""lace"", as commonly understood, as an ornamental fabric, rather than its rare use to mean a plaited string for fastening,

like shoe-laces etc., that was intended to apply to the entry in question. In fact, some of the braided cords produced before us are suited for the

purpose of fastening, since they are in the shape of well-knit strings, but it appears to us to be more preferable to adopt the broader view of

textiles"", which we have mentioned above, namely, articles produced as a result of weaving, ''and from this point of view, braided cords, now under consideration, will also be entitled to the exemption provided in entry 4 mentioned above, as textiles.

7. In view of the above, these revision cases are dismissed with costs. Advocate''s fee Rs. 100 one set.