(1970) 03 KAR CK 0001

In the Karnataka High Court

Case No : S.T.A. 56/59 S.T.R.Ps. No''s. 52 and 53 of 1969

The State of Mysore APPELLANT

Vs

Kores (India) Ltd. RESPONDENT

Date of Decision : 11-03-1970

Acts Referred:
Mysore Sales Tax Act, 1957 — Section 5 (1)

Citation : (1970) 26 STC 87

Hon'ble Judges : G.K. Govinda Bhat, J;B. Venkataswami, J

Bench : Division Bench

Advocate : P.K. Shyamasundar, for the Appellant; A.N. Jayaram, for the Respondent

Judgement

Venkataswami, J.—These two revision petitions have been preferred by the State and are directed against a common assessee and they relate to two separate assessment years. The respondent is a manufacturer of typewriter ribbons with a branch office at Bangalore. During the assessment years 1964-65 and 1965-66, it submitted returns in regard to the sales of such article. The assessee contended that it was liable to pay sales tax as per the general provision u/s 5(1) of the Mysore Sales Tax Act, 1957, at 2 per cent. of the turnover. The assessing authority sought to levy tax on the basis that the typewriter ribbons were parts of typewriters and as such fell within entry 18 of the Second Schedule to the Act. The Sales Tax Appellate Tribunal came to the conclusion that typewriter ribbons were not parts of typewriters falling under entry 18 of the Second Schedule.

2. The question of law arising for decision is, whether typewriter ribbons fall under entry 18 of the Second Schedule or u/s 5(1) of the Act ?

3. It is contended on behalf of the State by Sri P. K. Shyamasundar, learned Government Pleader that a typewriter cannot be operated without a ribbon and as such it should be considered as a part of the typewriter. We are not persuaded to agree with this submission on behalf of the State.

4. Whether a typewriter ribbon is a part of a typewriter is to be considered in the light of what is meant by a typewriter in the commercial sense. It is clear from the order of the Appellate Tribunal itself that a typewriter ribbon is not ordinarily manufactured or supplied by manufactures of typewriters. It is also seen from the Tribunal''s order that a catalogue and price list issued by a manufacturer of typewriter, namely, J.K. Machines Limited does not show that the typewriter ribbons are included in the list of spare parts of a typewriter. The mere fact that a machine cannot be used without some other accessory is not by itself decisive of this question. The point to be considered is, whether a typewriter is sold commercially with or without such ribbon. It is clear from the facts presented before us that they are being sold in the market without the typewriter ribbons. That being the position, it must follow that the typewriter ribbon is not an essential part of a typewriter so as to attract tax as per entry 18 of the Second Schedule to the Act as contended for by Sri P. K. Shyamasundar.

5. For the above reasons, we do not find any reason to differ from the conclusion of the Tribunal set out earlier. The petitions, therefore, fail and are dismissed, but without costs.

6. Petitions dismissed.

