(1972) 02 RAJ CK 0008

In the Rajasthan High Court

Case No : Civil Sales Tax Reference No. 14 of 1968

The State of Rajasthan APPELLANT

Vs

Ratan Lal Kewal Chand RESPONDENT

Date of Decision : 01-02-1972

Acts Referred:

Citation : (1972) RLW 254 : (1972) 29 STC 689 : (1972) WLN 99

Hon'ble Judges : Jagat Narayan, C.J;B.P. Beri, J

Bench : Division Bench

Advocate : Raj Narain, A.A.G, for the Appellant; D.P. Gupta, for the Respondent

Judgement

Jagat Narayan, C.J.—The following question has been referred by the Board of Revenue :

Whether the turnover of the assessee in respect of the woollen coats was chargeable at the rate prescribed by the Notification No. F.5 (39) E & T/58/1 dated 1st April, 1958, namely 7 per cent, or the same was chargeable at the general rate prescribed by the Act, namely, 3 1/8 per cent ?

2. Under Notification No. F.21(7)SR/55 dated 25th March, 1955, different rates of sales tax were prescribed for the 3 lists appended to the notification. We are concerned with items 10, 11, 12 and 13 of List II which run as follows :

10. Silk including artificial silk and silken goods of all types, velvet and articles made of it including caps.

11. All textile fabrics (woollen, cotton or silken), in which gold, silver or gilded metal is used in weaving, knitting and embroidering and wires of gold, silver and gilded metal, zari and other articles used for embroidery.

12. All kinds of woollen goods, shawls and woollen cloth including woollen yarn and thread.

13. All kinds of ready-made garments of artificial silk, silk, wool or other textile

fabrics in which gold, silver or gilded metals are used.

3. Under Notification No. F.21(7)SR/55 dated 14th April, 1955, the sales tax on the above 4 items shown in List II was reduced to 3 1/8 per cent.

4. Under Notification No. F.5(39) E & T/58/1 dated 1st April, 1958, the rate of sales tax on goods specified in the notification was raised to 7 per cent. The following items of this notification are relevant :

9. Pure silk and goods of all kinds made of such silk.

10. All kinds of woollen goods including woollen hosiery, woollen yarn and woollen thread but excluding woollen cloth.

5. The contention on behalf of the department is that item No. 10 covers all woollen goods including ready-made garments of wool. We are unable to accept this argument. Under the first notification which was amended by the second and third notifications the rate of sales tax on 3 types of fabrics as well as garments made therefrom was 6 1/4 per cent. This was reduced to 3 1/8 per cent, under the second notification. The 3 types of fabrics may be stated as follows :

1. Silk including artificial silk dealt with under item No. 10.

2. Woollen, cotton or silken fabrics in which gold, silver or gilded metal is used (item No. 11).

3. Woollen fabrics (item No. 12).

6. Item No. 13 specifies ready-made garments from the above 3 fabrics. It will be seen that the words "in which gold, silver or gilded metals are used" qualify the words "all kinds of ready-made garments of... other textile fabrics". They do not qualify the words "all kinds of ready-made garments of artificial silk, silk, wool".

7. Item No. 13 thus includes the following only:

(a) All kinds of ready-made garments of artificial silk or silk.

(b) All kinds of ready-made garments of wool.

(c) All kinds of ready-made garments of other textile fabrics in which gold, silver or gilded metals are used. These other textile fabrics may be woollen, cotton or silken as enumerated in item No. 11.

8. We accordingly hold that the rate of sales tax on all ready-made garments is 3 1/8 per cent.

9. On behalf of the department the decision in British India Corporation Ltd. v. State of Uttar Pradesh [1962] 13 S.T.C. 459 was referred to. That decision is of no help in interpreting the third notification dated 1st April, 1958. That notification amends the earlier notifications dated 25th March, 1955, and 14th April, 1955, and in order to interpret it, it has to be read in the light of the earlier

two notifications.

10. We are accordingly of the opinion that the decision of the Board of Revenue holding that sales tax is chargeable on ready-made garments made of wool at 3 1/8 per cent, is correct, This is in our opinion also (sic) garments includes not only the cost of the fabric of which it is made but also the labour charges for making the garments. The sales tax on ready-made garments, it appears, therefore, has been fixed at a lower rate than the tax on the fabrics of which they are made.

11. We, therefore, answer the question as follows :

The turnover of the assessee in respect of the woollen coats was chargeable at the rate of 3 1/8 per cent.

