

(1986) 03 P&H CK 0009

In the Punjab And Haryana At Chandigarh

Case No : General Sales Tax Reference No. 22 of 1983

Thomson Press (India) Limited

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 14-03-1986

Acts Referred:

Constitution of India, 1950 — Article 226
Punjab General Sales Tax Act, 1948 — Section 6

Citation : (1987) 1 ILR (P&H) 165 : (1987) 67 STC 54

Hon'ble Judges : S.P. Goyal, J; Gokal Chand Mital, J

Bench : Division Bench

Advocate : Kapil Sibal, R.C. Setia and Pinaki Mishra, for the Appellant; Gopi Chand, for the Respondent

Judgement

Gokal Chand Mital, J.—M/s. Thomson Press (India) Ltd., carries on the business of printing at their printing press at Faridabad since 1967. It is registered both under the Central Sales Tax Act and Haryana General Sales Tax Act. It does printing jobs received by it from Government departments, statutory corporations and business organisations. According to the need it has been printing all types of forms of books in various sizes, shapes and designs. During assessment proceedings for the assessment year 1969-70, the stand of the company before the Assessing Authority, Faridabad, was that the sales of items like booklets, brochures, annual reports folders and UNESCO couriers are covered by entry No. 22 of Schedule B of the Punjab General Sales Tax Act, 1948 (for short "the 1948 Act"), pertaining to "books" and as such the same were exempt from tax. The same was the plea with regard to the assessment years 1970-71 to 1972-73. For the years 1973-74 to 1975-76 the same argument was raised as by then the Haryana General Sales Tax Act, 1973 (for short "the Haryana Act"), had become applicable and the exemption was sought under entry No. 8 of Schedule B of that Act.

2. The case for the assessment year 1969-70 came up first before the Assessing

Authority and he rejected the contention of the assessee and subjected all items to tax vide order dated 30th March, 1976. For the year 1969-70 the matter was taken up in appeal. Before the appellate authority, the assessee relied upon decision of the Allahabad High Court in Commissioner of Sales Tax, U.P., Lucknow v. Indo Arts [1969] 24 STC 342, and a judgment of the Andhra Pradesh High Court in Govindaswamy Binding Works v. State of Andhra Pradesh [1972] 29 STC 219, for the proposition that the items like brochures, booklets, magazines and folders and all kinds of books including account books are covered by the term "books". The appellate authority accepted the contention and by order dated 22nd December, 1976, held that the items in question are covered by the term "books" in entry 22 of Schedule B of the Punjab Act, 1948 and were exempt from tax. For the subsequent six years, the matter came up before the Assessing Authority on different dates and by separate orders of different dates, the cases for the six years were decided on the basis of the aforesaid decision of the appellate authority and it was held that the assessee was exempt from tax. As a result the assessee became entitled to refund of tax paid in excess.

3. The Joint Excise and Taxation Commissioner, Haryana, took up the matter in suo motu revision against the order of the appellate authority for the year 1969-70; and of the Assessing Authority for the subsequent six years. The assessee challenged the jurisdiction of the Joint Excise and Taxation Commissioner for revising the orders and also supported the decisions of the appellate authority as well as of the Assessing Authority, which were based on the decision of the appellate authority. The revisional authority rejected the contention of the assessee and on merits held that the sales of folder, brochures, annual reports, souvenir and booklets are not exempt from the levy of tax under the Punjab and Haryana Sales Tax Acts and were liable to tax. Accordingly, by common order dated 11th May, 1981, the order of the appellate authority in the first case and that of the Assessing Authority in the subsequent six cases were set aside and the matter was remanded to the Assessing Authority, Faridabad, with a direction to work out the tax liability in the light of the observations made in his order and to realise the tax due. Against the aforesaid order; the assessee filed seven separate appeals before the Sales Tax Tribunal, Haryana. The Tribunal after considering the matter, rejected all the appeals by common order dated 20th August, 1982. On the assessee's applications, the Tribunal has referred the following common question for opinion of this Court for all the seven assessment years and the references have been registered in this Court as G. S. T. R. Nos. 16 to 22 of 1983.

Whether, on facts and circumstances of the case, UNESCO courier, folders, booklets, brochures and annual reports printed and sold by the petitioner are not covered under the word "books" in entry No. 22 of Schedule B of the Punjab General Sales Tax Act, which corresponds to the entry No. 8 of Schedule B of the Haryana General Sales Tax Act.

4. While the matter was pending consideration, the cases for the years 1976-77

onwards came up for consideration from time to time. For these subsequent years, the assessee filed Civil Writ Petitions Nos. 498 of 1983, 3483 and 3484 of 1984 directly in this Court under Article 226 of the Constitution of India against the order of the Assessing Authority, instead of going through the ordeal of appeals to the various authorities and then reference to this Court as the point was already under consideration of this Court in the aforesaid seven references. Since common questions arise, the seven references and the three writ petitions are being disposed of by this common judgment, as also agreed to by the counsel for the parties.

5. Before we proceed to discuss the matter, it deserves mentioning that the learned counsel appearing for the assessee has stated at the Bar that he is not disputing the decision of the Sales Tax Tribunal with regard to folders. He also stated at the Bar that UNESCO couriers were printed in the first year of its inception, and were not printed during the assessment years in dispute nor it has the intention to print them in near future, and, therefore, the decision of the Sales Tax Tribunal regarding UNESCO courier is also not being challenged. In view of the above, the part of the referred question regarding UNESCO courier and folders is being decided against the assessee.

6. Adverting to the remaining printing matters like booklets, brochures and annual reports, the learned counsel for the assessee has referred to Commissioner of Sales Tax Vs. Indo Arts, and Govindaswamy Binding Works and Others Vs. The State of Andhra Pradesh, . Reference has also been made to Industrial and Commercial Service Vs. Commissioner of Sales Tax, U.P., . On the other hand the counsel for the State has relied upon Swaraj Printers v. State of Kerala [1973] 31 STC 659 (Ker) . He also placed reliance on Ramavatar Budhaiprasad Etc. Vs. Assistant Sales Tax Officer, Akola, and Deputy Commissioner of Sales Tax (Law), Board of Revenue (Taxes), Ernakulam Vs. G.S. Pai and Co., for the proposition as to how the word "book" has to be interpreted. In order to appreciate the cases cited at the Bar, the relevant law under which the cases came up for consideration deserves to be compared.

The Punjab General Sales Tax Act, 1948. Schedule B : which contains items exempted from levy of tax u/s 6 of the Act. Item No. 22. Books. 23. Periodicals. 24. Exercise and drawing books. 24-A. Admission forms and prospectuses of the Punjab School Education Board and of the Universities in the State. 25. Writing slates and slate pencils. 26. Writing chalks and crayons. 27. Footrules of the type usually used in schools. The Haryana General Sales Tax Act, 1973. Schedule B : containing items exempt from levy of tax u/s 6 of the Act. Item No. 8. Books. 9. Periodicals. 10. Exercise and drawing books. 11. Writing slates and slate pencils. 12. Writing chalks and crayons. 12-A. Coloured pencils used for drawing but not ordinary graphite pencils popularly known as lead-pencils. 13. Footrules of the type usually used in schools.

7. In Commissioner of Sales Tax Vs. Indo Arts, the following exempted items came up for consideration under the U. P. Sales Tax Act :

Books, magazines and exercise books." It was held that brochures, booklets and folders are comprehended in the word "books".

8. In *Govindaswamy Binding Works and Others Vs. The State of Andhra Pradesh*, under the Andhra Pradesh Sales Tax Act, the following exempted items arose for consideration :

All kinds of books and periodicals"; and it was held therein that the expression "all books" would include any kind of books, including account books, notebooks, loose sheets of paper fastened together and they need not be literary works or books. Even the expression "book" itself was held to be comprehensive enough to take in all kinds of books and the word "all" was considered to make it abundantly manifest and plain that the notification was issued to cover all cases of sales of books and is not restricted in its application to books of literary material or other kinds of reading material. During discussion, it was noticed that earlier to the item "all books and periodicals" under the prior notification, exemption was allowed only to certain kinds or categories of books from payment of sales tax. In view of the new enlarged entry it was held that exemption was allowed to account books, note-books, etc., also.

9. In *Industrial and Commercial Service Vs. Commissioner of Sales Tax, U.P.*, the item "book" under the U. P. Sales Tax Act came up for consideration, and in that case sale of diaries (containing mostly of blank pages, a sloka from Bhagwat Gita at the top of each page and a few pages of general information in the beginning) by the assessee came up for consideration. It was held that diaries did not come within the word "books". The learned Judges were of the opinion that the word "books" is used not in wider sense but in the restricted or popular sense. The words take their colour from each other and the more general is restricted to a sense analogous to the less general.

10. In *Swaraj Printers'* case [1973] 31 STC 659 (Ker) the following item under the Kerala Sales Tax Act came up for consideration :

Books meant for reading or reference". There, the assessee wanted exemption of tax on sale of catalogue of sale by auction of products like tea dust, annual report of Indian Chamber of Commerce and annual statements of accounts and a publication called "Tea Review". The learned Judges were of the opinion that the aforesaid items did not come within exemption clause. They were further of the opinion that the books which are literary in nature were only exempt and the word "reference" juxtaposed with the word "reading" can only indicate that the books meant for reference are books which are meant for reference for the public for education, knowledge, enlightenment or recreation and the catalogue or the annual report or the annual statements of accounts or the publication like the "Tea Review" can be used as books of reference by estate owners, auctioneers and shareholders of the companies. It was held that they would not come within the ambit of expression "books meant for reading or reference" occurring in the notification. They were also of the view that the exempted item has a definite

connotation so far as the public are concerned and it takes in books meant for use of the public to improve their learning and for dissemination of knowledge.

11. The other two cases cited on behalf of the State give guidelines how to interpret the word or an item. The rule of interpretation in the other two cases are being kept in view while interpreting the item with which we are concerned along with other referred cases.

12. After considering the matter at length we are of the view that booklets, brochures and annual reports when printed and sold come within the ambit of the word "books". In G.S. Pat & Co.'s case [1980] 45 STC 68 (SC) the word "bullion" had come up for consideration and P. N. Bhagwati, J., speaking for the court observed as follows :

The word has to be interpreted according to ordinary parlance and must be given a meaning which people conversant with that commodity would ascribe to it.

13. It was also observed that the word should be understood in the popular sense or should be given its plain ordinary meaning.

14. In Ramavatar Budhaiprasad Etc. Vs. Assistant Sales Tax Officer, Akola, J. L. Kapur, J., speaking for the Constitution Bench observed that the word "vegetables" must be construed not in any technical sense nor from the botanical point of view but as understood in common parlance and should be construed in its popular sense meaning "that sense which people conversant with the subject-matter with which the statute is dealing would attribute to it".

15. Keeping the dictum of interpretation laid down in the aforesaid two decisions, we are of the opinion that the word "books" has to be understood in its popular sense and has to be given its plain ordinary meaning in which it is understood in the ordinary parlance. The books are meant for learning and now we are nearing the end of 20th century and there has been specialization in every field of learning and with this specialization and interest to know minute details about every matter books are being published for every matter, some of which may be of interest of one section of the society and another set may be of interest of another set of persons and so on. From books we derive knowledge, information and guidance. If only text-books, which were to be read by every student in the schools or colleges, were to be considered to fall within the definition of "books" and nothing else, then the item would have been the "textbooks" and not the "books".

16. In Govindaswamy Binding Works and Others Vs. The State of Andhra Pradesh, the scope of books was enlarged by saying all kinds of books and because of the enlarged definition, account books, note-books, loose sheets of paper fastened together, i.e., other than literary books, were also considered to fall within the item.

17. In Industrial and Commercial Service Vs. Commissioner of Sales Tax, U.P., a diary was held to be beyond the scope of the word "books". In Commissioner of

Sales Tax Vs. Indo Arts, the word "books" directly came up for consideration and it was ruled that it included brochures, booklets and folders. There was slightly a different definition in Swaraj Printers Vs. State of Kerala, which came up for consideration. There, the words "books for reading or reference" came up for consideration and the learned Judges were of the opinion that only literary books come within the words books for reading or reference books, which may be meant for the public for education, knowledge, enlightenment or recreation. In spite of recording this finding, they concluded that catalogue, the annual statements of accounts or the publication like the "Tea Review" could not fall within the definition of books or reference as they could be of use only for reference by estate owners, auctioneers and shareholders of the companies.

18. We are in agreement with the view taken by the Allahabad High Court in Indo Arts" case [1969] 24 STC 342 when they held that the books would include brochures and booklets. We are also in agreement with the learned Judges of the Kerala High Court in Swaraj Printers" case [1973] 31 STC 569 to the extent that the books which are meant for the reading and reference purposes for the public, for education, knowledge, enlightenment or recreation would be covered by the word "books". We are also in agreement with the learned Judges when they observed that the "books" has a definite connotation so far as public are concerned and it takes in books meant for use of the public to improve their learning and for dissemination of knowledge. On this background we are of the opinion that the booklets, brochures and annual reports when printed and sold would fall within the word "books". The three kinds of books, which the assessee prints, have been placed before us and we find that they squarely fall within the meaning of the word "books" as they are books for learning and for acquiring knowledge or getting information, on a definite matter in which a reader may be interested. As we have already observed above, in the present field of specialization, some books of general information may be of interest to everybody whereas other books of special category may be of interest to those who are interested in that category. Once that is our view, we are constrained to say that we record our dissent to the view taken by the Kerala High Court in Swaraj Printers" case [1973] 31 STC 659 when it observed that the annual report or the annual statements of accounts or publications like "Tea Review" would be used as books of reference by estate owners, auctioneers and shareholders of the companies and not by general readers, and, therefore, would not fall within the ambit of "books". In the present day of specialization the reading interest or the interest to achieve knowledge varies during different stages of life. In our view, it would be contradiction in term because once we say that the books meant for reference for education, knowledge, enlightenment and recreation fall within the definition of books and yet we exclude certain books only because they may be of interest not to all and sundry but to a few. The books, which the assessee is printing are in the interest of public, may not be for the whole but those who have interest in the annual reports prepared by one Government department or corporation or the other. The assessee prints annual

reports of knowledge in different ministries. It has printed a final report about the IX Asian games held in Delhi in the year 1982. It has also printed annual reports of the Government of India, Department of Space, Oil and Natural Gas Commission and so on. It also prints the annual reports and balance sheets of big public Ltd. companies besides printing booklets about Civilization, Women Today and Wildlife, etc in our country and elsewhere.

19. For the reasons recorded above, we hold that the booklets, brochures and annual reports printed for sale by the assessee squarely fell within the word "books" both in the exempted item "contained in the Punjab Act and the Haryana Act. Accordingly, with regard to the aforesaid three items, the question is answered in favour of the assessee and against the department and the G. S. T. R. Nos. 16 to 22 of 1983 stand disposed of.

20. Civil Writ Petitions Nos. 498 of 1983 and 3483 and 3484 of 1984 are allowed to the extent that the levy of sales tax on booklets, brochures and annual reports printed and sold by the assessee is hereby quashed. The assessee would be entitled to refund of the tax in pursuance of this order. The parties, are however, left to bear their own costs.