(2002) 11 P&H CK 0145

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No''s. 17236, 17328, 17355 and 17457 of 2002

Vallabh Knits Ltd. APPELLANT

Vs

State of Punjab and Others RESPONDENT

Date of Decision : 22-11-2002

Acts Referred:
Punjab Tax on Entry of Goods into Local Areas Act, 2000 — Section 2, 3, 3(5), 3A

Citation : (2006) 143 STC 483

Hon'ble Judges : Virender Singh, J;N.K. Sodhi, J

Bench : Division Bench

Advocate : K.L. Goyal, for the Appellant; P.S. Chhina, Addl. Advocate-General, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Sodhi, J.—This order will dispose of four Writ Petitions Nos. 17236, 17328, 17355 and 17457 of 2002 in which common questions of law and fact arise. Counsel for the parties are agreed that the decision in Civil Writ Petition No. 17236 of 2002 will govern the other cases as well. For the sake of convenience, the facts are being taken from Civil Writ Petition No. 17236 of 2002 in which arguments were addressed.

2. At the outset the learned Counsel for the petitioner stated that he is not challenging the vires of the Punjab Tax on Entry of Goods into Local Areas Act, 2000 (for short, "the Act") though the vires are under challenge in some of the writ petitions which stand admitted.

3. The only contention of Shri K.L. Goyal, advocate for the petitioner, is that his client is bringing yarn in the State of Punjab and, therefore, no tax is leviable in terms of the Schedule to the Act. The argument is that yarn is not one of the items specified in the Schedule and, therefore, no tax is payable when yarn is brought inside the State of Punjab. We are unable to accept this contention of the learned Counsel. By Punjab Ordinance No. 4 of 2002 the State Government

has amended Section 3 of the Act and also introduced Section 3A which reads as under :

3A. Notwithstanding anything contained in Section 3, there shall be levied a tax under this Act on such goods, as may be specified by the Government by notification in the Official Gazette even if, the tax is payable on those goods under the provisions of the Punjab General Sales Tax Act, 1948, and in respect of those goods, the provisions of Sub-section (5) of Section 3 shall not apply.

4. In exercise of the powers conferred by this section, the State Government has issued a notification dated October 1, 2002 specifying the goods mentioned therein for levying tax at the hands of all the importers including a dealer registered under the Punjab General Sales Tax Act, 1948. "Yarn of all kinds" is at serial No. 1 of the goods specified in the notification.

5. It is common case of the parties that the petitioner before us is not an "importer" within the meaning of the Act. The term "importer" has been defined in Clause (e) of Section 2 of the Act to mean a person who brings or causes to be brought scheduled goods into a local area from any place outside the State of Punjab. Since yarn is not one of the items mentioned in the Schedule to the Act, the petitioner cannot be described as an importer. This, however, does not mean that tax is not leviable on yarn. In the notification dated October 1, 2002 yarn of all kinds is an item mentioned at serial No. 1 of the notification on which tax is leviable at the rate of 4 per cent. This tax is payable by all importers including a dealer registered under the Punjab General Sales Tax Act. Admittedly, the petitioner is bringing yarn from outside the State. A reading of the notification along with the provisions of Section 3A of the Act as introduced by Punjab Ordinance No. 4 of 2002 makes it clear that tax leviable under this provision is not only on the importer but also on the dealer registered under the Punjab General Sales Tax Act, 1948. It is the petitioner''s own case that it is a registered dealer under the Punjab General Sales Tax Act, 1948. This being so, tax is leviable at the rate of 4 per cent on yarn when it is brought inside the State of Punjab by a registered dealer.

6. Before concluding we may refer to the two judgments cited by the learned Counsel for the petitioner. He referred to Mathuram Agrawal Vs. State of Madhya Pradesh, and also to Commissioner of Wealth Tax, Gujarat-III, Ahmedabad Vs. Ellis Bridge Gymkhana, to contend that the word "including" in the notification dated October 1, 2002 does not mean that a registered dealer becomes liable to pay tax on the items mentioned in the notification. We have gone through these judgments of the apex Court and they do not deal with the question that has arisen before us. We are, therefore, of the view that these judgments do not advance the case of the petitioner. The interpretation sought to be put on the notification by the learned Counsel for the petitioner is not correct.

7. In the result, we find no merit in the writ petitions and the same stand dismissed with no order as to costs.