(1965) 10 GUJ CK 0009

In the Gujarat High Court

Case No : Sales Tax Reference No. 4 of 1965

Vithal Chhagan and Sons APPELLANT

Vs

The State of Gujarat RESPONDENT

Date of Decision : 08-10-1965

Acts Referred:

Bombay Sales Tax Act, 1959 — Section 52

Citation : (1966) 17 STC 96

Hon'ble Judges : P.N. Bhagwati, J;J.M. Shelat, J

Bench : Division Bench

Advocate : S.L. Mody, for the Appellant; A.D. Desai, Assistant Government Pleader, instructed by M.G. Doshit, Additional Government Pleader, for the Respondent

Judgement

Bhagwati, J.—A very short question arises on this reference, namely, whether wrist watch-cases with chromo-steel back are spare parts of watches within the meaning of entry 10 of Schedule E to the Bombay Sales Tax Act, 1959. The assessee carries on business as a manufacturer of wrist watch-cases and machine tools. The assessee sold seven dozen wrist watch-cases with chromo-steel back under a bill dated 2nd May, 1963, and submitted an application to the Deputy Commissioner of Sales Tax u/s 52 for determination of the sales tax payable on the same. The Deputy Commissioner took the view that wrist watch-cases were "spare parts" of watches and fell within entry 10 of Schedule E and were, therefore, taxable at the rate specified in that entry. The assessee''s contention was that wrist watch-cases were not "spare parts" of watches within the meaning of entry 10 of Schedule E and since there was no other specific entry covering them, they fell within the residuary entry 22 of Schedule E and since that contention was rejected by the Deputy Commissioner, the assessee preferred an appeal to the Tribunal. The Tribunal also took the same view and hence the present reference at the instance of the assessee.

2. The controversy between the parties centred round the narrow question as to

which is the entry under which wrist watch-cases fall : entry 10 of Schedule E or entry 22 of Schedule E. Entry 10 of Schedule E describes the goods comprised in it as "clock, time-pieces and watches and spare parts thereof" while entry 22 of Schedule E is a residuary entry covering "all goods other than those specified from time to time in section 14B and in Schedules A, B, C and D and in the preceding entries." If wrist watch-cases are spare parts of watches, they would come within entry 10 of Schedule E but if they are not, they would, in the absence of any other specific entry covering them, fall within entry 22 of Schedule E. The question which, therefore, arises for consideration is whether wrist watch-cases can be said to be "spare parts" of watches.

3. Now it is a well-settled rule of construction in sales tax statutes that words used by the Legislature in entries in various schedules to describe different kinds of goods for prescribing different rates of tax must be construed not in any technical or scientific sense but as understood in common parlance. See Ramavatar Budhaiprasad Etc. Vs. Assistant Sales Tax Officer, Akola, . The expression "watches" as used in entry 10 of Schedule E is a word of every day use and must, therefore, 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." Now the kind of watch with which we are concerned in the present reference is wrist watch since the watch-cases sold by the assessee were admittedly for wrist watches and in its popular sense wrist watch cannot man just the mechanism without the watch-case. When a customer goes to a dealer and asks for a wrist watch, he does not ask for the mechanism; he asks for what is popoularly known as wrist watch and that is the article consisting of the mechanism fitted in the watch-case, an article ready for use as a wrist watch. The watch-case is as much an integral part of the wrist watch as the mechanism and both make up the wrist watch as understood in ordinarily parlance. The watch-case is, therefore, clearly an integral constituent part of the wrist watch. It was however contended by Mr. Mody on behalf of the assessee that though the watch-case may be a component part of the wrist watch, it cannot be regarded as a spare part and for this purpose a distinction was sought to be made by him between a component part and a spare part. He drew our attention to various entries in Schedules C and E where the Legislature has used the expressions "component parts" and "spare parts" differently at different places and he urged that the use by the Legislature of these two different expressions at different places clearly indicated that the connotation of these two expression was different. A component part, he argued, is any part which goes into the making of the article while a spare part means only that part which is severable and essential for the functioning of the article as such. He contended that the watch-case may be a component part of the wrist watch, but it was certainly not a spare part since it was not essential for the functioning of the wrist watch : the wrist watch could work as a watch even in the absence of the watch-case. This contention is certainly ingenious but there is no merit in it. A component part is a part which goes in the composition of an article and after it

becomes part of such article it may retain its identity or it may even lose its identity and not be capable of separate identification. The watch-case is, therefore, certainly a component part of the wrist watch since, as pointed out above, the wrist watch would not be complete as a commercial article without the watch-case and the watch-case undoubtedly goes into the making of the wrist watch. But the question is : is it also a spare part of the wrist watch ? Now every part which goes in the making of an article and is, therefore, a component part of the article would not necessarily be a spare part of the article. The word "part" according to Black''s Law Dictionary means "an integral portion, something essentially belonging to a larger whole; that which together with another or others makes up a whole" and a spare part would, therefore, mean any integral part of an article which is carried, held, or kept in reserve for future use or to supply an emergency or which is addition or extra. See the meaning given in the Shorter Oxford Dictionary at pages 1957. It is implicit in this meaning that the part in question must be a part which is severable and capable of being substituted or replaced by another, for otherwise there would be no point in having an additional or extra part or carrying, holding, or keeping such part in reserve for future use or to supply an emergency. The watch-case clearly satisfied this requirement since it is indubitably a severable part which can be substituted or replaced by another. But the argument of Mr. Mody was that it is not enough that the part should be one which can be substituted or replaced but that it must also satisfy another condition, namely, that it must be essential for the functioning of the article and this condition was not satisfied so far as the watch-case is concerned. He urged that the watch-case is not essential for the functioning of a watch and it cannot, therefore, be regarded as a spare part. This argument is, however, fallacious in that it overlooks that the watch-case with which we are concerned in the present reference is a watch-case for a wrist watch and not for any other kind of watch. The watch-case is absolutely essential for the functioning of a wrist watch as a wrist watch. The wrist watch would of course show the time even without the watch-case but it would not be possible to use it as a wrist watch unless the mechanism is fitted in the watch-case. Therefore, even if the condition suggested by Mr. Mody is a condition which must be fulfilled before a part can be said to be a spare part, we are satisfied that it is fulfilled in the present case since the watch-case is undoubtedly essential for the functioning of a wrist watch as a wrist watch. The watch-case must, therefore, be held to be a spare part of a wrist watch within the meaning of entry 10 of Schedule E.

4. Our answer to the question referred to us, therefore, is that chromo-steel back watch-cases sold by the assessee under their bill dated 2nd May, 1963, are spare parts of a watch and are covered by entry 10 of Schedule E to the Bombay Sales Tax Act, 1959. The assessee will pay the costs of the reference to the State.

5. Reference answered accordingly.

