(1953) 09 KAR CK 0006

Mysore High Court

Case No: Civil Petition No''s. 64 and 73 of 1952-53 and 28 of 1953

Deputy Commissioner of Sales Tax, Bangalore		APPELLANT
	Vs	
Dharmaprakasha S.V. Sreenivasa Setty		RESPONDENT

Date of Decision: Sept. 10, 1953

Acts Referred:

- Mysore Sales Tax Act, 1948 - Section 16, 6

Citation: (1953) ILR (Kar) 614 : (1954) 5 STC 180

Hon'ble Judges: Venkataramaiya, J; Balakrishnaiya, J

Bench: Division Bench

Advocate: A.R. Somanatha Iyer, -General, for the Appellant; V. Krishna Murthy and S. Srikantaiya, for the Respondent

Judgement

Venkata Ramaiya, J.

The Deputy Commissioner of Sales Tax, Bangalore, has u/s 16 of the Mysore Sales Tax Act referred the following question in C.P. No. 64 of 1952-53 :-

"Whether in respect of sale of artificial silk manufactured in foreign countries and imported to India, the petitioner is liable to pay sales tax thereon after 19th November, 1948, in view of Government notification No. F1. 4851-S.T. 1-48-26".

2. Substantially the same question has been referred by him in C.P. No. 73 and by the Commissioner of Sales Tax in C.P. No. 28 of 1953. Arguments were addressed in common on the footing that the answer to be given in each case has to be identical. The claim for exemption from liability in all the cases is based on the interpretation of the terms of clause (1) of the notification mentioned in the question. Clause (1) is as follows :-

"In exercise of the powers conferred by Section 6 of the Mysore Sales Tax Act, 1948, the Government of His Highness the Maharaja is pleased to direct that (1) the sale of filature silk, foreign silk and charka silk twisted by hand, shall be exempt from taxation under sub-section (1) of Section 3 of the said Act."

3. Section 3 of the Act provides for levy of the tax and Section 6 for exemption or reduction in rate in respect of the tax by a notification of Government. Of the three kinds of silk referred to therein, charka silk and filature silk may be left out as artificial silk is not alleged to be either of these but is said to be "foreign silk".

4. In support of this it was argued that if the word "silk" is meant to denote only the fine, soft substance produced by silk worm to form their cocoons the expression "filature silk" itself is wide enough to include local as well as foreign silk and therefore the term "foreign silk" would be superfluous unless it is deemed to have reference to artificial silk. The argument implies that all silk is either "filature silk" or "charka silk" and these are exhaustive descriptions of whatever is silk. Assuming this to be true it does not follow that what is not silk must be regarded as silk.

5. In Hough v. Windus (1884) 12 Q.B.D. 224 at p. 229, Lord Selborne expressed the view of the great masters of law to be "that nothing can be more mischievous than the attempt to wrest words from their proper and legal meaning, only because they are superfluous."

6. Prima facie "artificial" denotes what is not genuine or not real and the ordinary rule of construction is to give the word the meaning generally attached to it. To hold that artificial silk is silk would therefore be tantamount to treating the unreal as real. "Silk" when qualified by the word "artificial" indicates something which has its appearance and sheen, just as what is called German silver or chemical diamond in popular parlance signify the colour and lustre of these and not the contents thereof. It may be that artificial silk is treated as good as silk on grounds of economy by those to whom the softness by touch and glistening on sight are enough irrespective of the contents of the fabric. The fact that it passes off as pure silk sometimes in the market and has sometimes escaped assessment is not a good reason to ignore the difference between the two.

7. Silk, be it "filature", "foreign" or "charka" as termed in the notification must be taken to have reference to the thread produced by the silk worm and not to what is silk-like. If anything which is not silk was intended to be exempted from taxation the notification should have made it clear as has been done in some other provisions of the Sales Tax Act. In the absence of any such provision and having regard to the sense in which the expression "artificial silk" is understood, it is difficult to accept the petitioner''s contention.

8. No other point is raised and since the petitioners conceded that if the notification is held to be inapplicable to "artificial silk" the answer to the questions formulated has to be in the affirmative against the petitioner in each case to the effect that they

are liable to pay the tax notwithstanding the notification. Advocate''s fee payable to Government in each reference is fixed at Rs. 50 as arguments were common to all.

9. Reference answered in the affirmative.