

## The State of Madhya Pradesh Vs R.R. Contractor and Co.

**Court:** Madhya Pradesh High Court

**Date of Decision:** Jan. 9, 1960

**Acts Referred:** Madhya Bharat Sales Tax Act, 1950 " Section 13

**Citation:** (1961) JLJ 967 : (1962) 13 STC 208

**Hon'ble Judges:** P.V. Dixit, C.J; K.L. Pandey, J

**Bench:** Division Bench

**Advocate:** H.L. Khaskalam, A.G.A, for the Appellant; A.P. Choubey, for the Respondent

### Judgement

@JUDGMENTTAG-ORDER

P.V. Dixit, C.J.

This reference u/s 13 of the Madhya Bharat Sales Tax Act, 1950, by the Commissioner of Sales Tax relates to. the

assessment of sales tax during the assessment year 1953-54 on the assessee Messrs R. R. Contractor & Co., Indore. The three questions which

the Commissioner has formulated and referred to this Court for decision are :-

(1) Whether washer is an article for the purpose of item No. 32 of Schedule No. 3 of the Madhya Bharat Sales Tax Act.

(2) Whether leather belts are articles for the purpose of item No. 32 of Schedule No. 3 of the Madhya Bharat Sales Tax Act.

(3) Since kerosene is exempted from Madhya Bharat Sales Tax, and since kerosene is purchased in tins and sold in tins whether these tins are

exempted from sales tax.

2. The taxing authorities have taken the view that the sales tax payable by the assessee on leather washers and belts sold would be according to

item No. 32 of Schedule No. 3 issued u/s 5 of the Act. According to this schedule, the sales tax payable on sales of leather goods of all kinds is

Rs. 6-4-0 ad valorem per cent. The assessee contended that as washers and leather belts sold by it were parts of machinery, the sales tax leviable

was under item No. 16 of Schedule No. 4 issued u/s 5 of the Act, The rate of sales tax payable in respect of sales of machinery, component parts

of machinery and spare parts is Rs. 3-2-0 ad valorem per cent. On this contention, the Commissioner asks us to say whether washers and leather

belts are leather articles for the purpose of item No. 32 of Schedule No. 3. The real point raised by the first two questions referred to for decision

by the Commissioner is not merely whether washers and leather belts which are admittedly of leather are or are not leather goods. It is whether

these articles are component parts of machinery. The assessee made no attempt to show that the nature of these articles was such that they could

not but be regarded as component parts or spare parts of any machinery. The question whether washers and leather belts are or are not spare

parts or component parts of machinery has to be decided having regard to the meaning of the word "machinery" and of the words "spare parts

and "component parts" and to the nature and type of the articles. The Privy Council pointed out in *Corporation of Calcutta v. Chairman of the*

*Cossipore and Chitpore Municipality* AIR 1922 P.C. 27 that there was a great danger in attempting to give a definition of the word "machinery

which would be applicable in all cases. Their Lordships, however, added that if they "were obliged to run the hazard of the attempt they would be

inclined to say that the word "machinery" when used in ordinary language prima facie means some mechanical contrivances which by themselves or

in combination with one or more other mechanical contrivances, by the combined movement and interdependent operation of their respective parts

generate power, or evoke, modify, apply or direct natural forces with the object in each case of effecting so definite and specific a result." The

assessee should have produced the necessary material before the taxing authorities to show that having regard to this general definition of

machinery" and to the type and nature of the washers and leather belts sold they could not but be regarded as spare or component parts of

machinery. In the absence of any such material, it is not possible for us to answer the first two questions referred to us and we decline to do so.

3. The answer to the third question is to be found in the decision in *Messrs Govindram Ramprasad v. The Assessing Authority (Sales Tax)* [1957]

M.P.C. 286, where also a similar question was raised.

4. In the circumstances we make no order as to costs.