(1968) 02 BOM CK 0002

Bombay High Court

Case No: Sales Tax Reference No. 44 of 1965

Commissioner of Sales Tax		APPELLANT
	Vs	
Voltas Limited		RESPONDENT

Date of Decision: Feb. 8, 1968

Acts Referred:

- Bombay Sales Tax Act, 1959 - Section 52

Citation: (1968) 22 STC 185

Hon'ble Judges: Vimadalal, J; N.L. Abhyankar, J

Bench: Division Bench

Judgement

Abhyankar, J.
The following question is referred for our decision by the Tribunal :-

"Whether crawler-mounted gasoline-operated cranes fall within the scope of, and are taxable at, the rates specified in entry No. 58 of Schedule C to the Bombay Sales Tax Act, 1959 ?"

2. The respondents supplied one P & H Model 255-A crawler-mounted gasoline-operated crane to Messrs Richardson and Cruddas Limited. As, according to them, there was no specific entry covering this item, they made an application u/s 52 of the Bombay Sales Tax Act to have determined whether the article sold by them fell within the residuary entry or under No. 15 of Schedule C, as contended by their purchasers.

3. The Commissioner took the view by reference to the definition of "motor vehicle" in the Indian Motor Vehicles Act, 1939, that the crane in question is a mechanically propelled vehicle, and would be covered by the restrictive definition of "motor vehicle" in the Indian Motor Vehicles Act. He thus held that the crane would be covered within the scope of entry No. 58 of Schedule C, and would be taxable accordingly under the Bombay Sales Tax Act, 1959.

4. Against this decision, the respondents preferred an appeal before the Sales Tax Tribunal. In an elaborate judgment, the Tribunal came to the conclusion that it would not be permissible or proper to interpret the entries in the Schedules to the Bombay Sales Tax Act in respect of entry No. 58 in Schedule C which speaks of motor vehicles including etc. by reference to the definition of "motor vehicle" in the Indian Motor Vehicles Act. If the article cannot be properly described as a motor vehicle then there is no other entry which covers the article in question, and, therefore, it was held it must be included in the residuary entry No. 22 in Schedule E.

5. In our opinion, the view taken by the Tribunal with respect to the relevance of the definition of "motor vehicle" in the Indian Motor Vehicles Act is proper, and it will not be safe to interpret the entries in the Schedules to the Bombay Sales Tax Act with reference to definitions of words used in different context in other Acts. The startling result of adopting this method of construction will be apparent if the definition in the Indian Motor Vehicles Act is to be taken into consideration. As observed by the learned Commissioner himself, the definition is restrictive and excludes a vehicle running upon fixed rails or used solely upon the premises of the owner. But it could not be contended that a motor vehicle otherwise properly coming within the definition of "motor vehicle" but used solely on the premises of the owner would not be chargeable to tax under entry No. 58 because of the definition of "motor vehicle" in the Indian Motor Vehicles Act. It would be risky to adopt definitions in other statutes and to interpret entries in different statutes divorced from their context. As far as we can see, entry No. 58, which speaks of motor vehicles and includes other vehicles of a similar kind, emphasises that the entry covers vehicles propelled by motors. The emphasis however is in the article being a vehicle, and not on the fact that propelling force is supplied by a motor. If other articles, such as motor cars, taxi cabs, motor cycles, motor cycle combinations, motor scooters, motorettes, motor omnibuses, are considered, the one governing factor in all these articles is that they are vehicles. It could hardly be said that the machine with which we are concerned, namely, crawler-mounted gasoline-operated crane, is a motor vehicle. Essentially, it is a crane. It is operated by use of gasoline, and such a crane is mounted on a crawler. That the crawler is propelled by a motor is undoubtedly the feature of the machine, but that by itself would not make it a motor vehicle in the sense in which the entry has to be understood, having regard to the import of the words, and other words which are used as included in the words "motor vehicle" as enumerated in entry No. 58 of Schedule C.

6. We are satisfied that the view taken by the Tribunal is the correct view, and the only answer that can be given to the question referred to us is in the negative.

7. The result is the reference is answered in favour of the assessee. The applicant shall pay the costs of the respondents fixed at Rs. 250 as costs of the reference.

8. Reference answered accordingly.