State of Punjab

Vs

Hindsons (P) Ltd.

Civil Appeals Nos. 1817-19 of 1984

(D. A. Desai, D. P. Madon JJ)

20.09.1984

ORDER

DESAI, J. –

1. On a direction given by the High Court of Punjab and Haryana at Chandigarh, the Sales Tax Tribunal, Punjab, Chandigarh ('Tribunal' for short) referred under Section 22(2)(b) of the Punjab General Sales Tax Act, 1948 ('Act' for short) the following question of law to the High Court for its opinion :

> Whether the belt pulley attachment was an agricultural implement within the meaning of Entry 34 of Schedule 'B' of Punjab General Sales Tax Act, prior to the amendment made on April 15, 1971 ?

2. This question came to be referred to the High Court at the instance of the assessee, the respondent herein. The respondent firm deals in tractors, motor-cycles, cycles, spare parts etc. The assessee filed its quarterly returns declaring a gross yearly turnover of Rs 21,65,983.91 p. Deductions were claimed in respect of sales of tax-free goods, sales made to registered dealers etc. Among the sales claimed in respect of tax-free goods, a commodity known as belt pulley attachment was included valued at Rs 26,572.82 p. It was admitted that the belt pulley attachment was sold along with tractor or separately by itself. It was contended by the assessee that the belt pulley attachment should be treated as an agricultural implement and therefore, it is exempted under Entry 34 of Schedule 'B' to the Act from the levy of sales tax. The assessing authority came to the conclusion that the belt pulley attachment could not be treated as a composite part of the tractor nor can it be treated as an agricultural implement and it was not one of the tax-free goods as contemplated by Entry 34. He accordingly, rejected the claim for deduction and completed the assessment for the assessment year 1965-66. The assessee preferred an appeal before the Deputy Excise and Taxation Commissioner raising various contentions, one of them being that the assessing authority was in error in holding that there belt pulley attachment was not an agricultural implement so as to be exempt from the payment of sales tax. The appellate authority held that the belt pulley attachment should be treated as an agricultural implement and allowed the appeal to that extent holding that the sales of belt pulley attachment amounting to Rs 26,572.82 p. was of tax-free goods under Section 5(2)(a)(i) and that amount should be deducted from the gross turnover of the assessee. The Joint Excise and Taxation Commissioner exercising the powers of Commissioner initiated suo moto proceedings under Section 21(1) of the Act and concluded that the appellate authority was in error in holding that the belt pulley attachment was an agricultural implement. He accordingly quashed the order of the appellate authority and restored the order of the assessing authority. The assessee carried the matter in revision to the Sales Tax Tribunal raising the same contention. The Sales Tax Tribunal by

its order dated October 21, 1972 upheld the order of the Joint Excise and Taxation Commissioner and dismissed the revision petition. The assessee moved an application under Section 21(1) of the Act requesting the Tribunal to state the case refer the question of law as hereinbefore set out to the High Court. The Tribunal rejected the application. Thereupon the assessee moved the High Court as hereinabove mentioned. The High Court held that "belt pulley attachment, as a matter of fact, increases the utility of a tractor for an agricultural operation" and conclude "that belt pulley attachment falls within the meaning of agricultural implement". The High Court accordingly answered the question in the affirmative that is against the revenue and in favour of the assessee. Hence this appeal by special leave.

3. The narrow question is whether belt pulley attachment is an agricultural implement so as to be exempt from the levy of sales tax under the Act. It is indeed true as held by the High Court that the belt pulley when used in a tractor may increase the utility of the tractor for agricultural operations but that by itself does not lead to the inevitable conclusion that belt pulley attachment is an agricultural implement. The Tribunal in this connection, has rightly held that not only belt pulley attachment is used in the tractor but it is also used in water pumps, thrashers etc. The High Court unfortunately overlooked the most obvious fact that belt pulley is also sold as a separate spare part. It is used in various other machines such as motor car engines. Belt pulley means a pulley over which a belt may pass to transmit power to other part of the machine. Common sense tells us that even in a motor car there is belt pulley and the rotational movement is transmitted from the rotating fan via the belt on the pulley to the pulley of the dynamo for charging it. The assessee is selling belt pulley attachment as spare part which can thus be used in many machines. If it is so then it is difficult to understand how belt pulley attachment by itself becomes an agricultural implement. When used in a motor engine, how can one ever assure that it is an agricultural implement. It may as well be used in many agricultural instruments where mechanised farming takes place. But by itself when sold as a spare part it cannot by itself becomes an agricultural implement. The exemption was with regard to an agricultural implement as contemplated by Entry 34 in Schedule 'B' to the Act. Undoubtedly, later on by amendment to Entry 34 on April 15, 1971, belt pulley attachment has been introduced in Entry 34. On this account alone it cannot however, be contended that the amendment merely makes explicit what was implicit in the entry as it stood prior to the amendment. The Tribunal rightly held that if belt pulley is used in a tractor and sales tax is levied on the sale of tractor no separate sales tax is levied on belt pulley. We do not purpose to view the matter from this angle. We must examine whether a belt pulley attachment when sold as a spare part would be comprehended in Entry 34 which sets out agricultural implements exempted from the levy of sales tax. Obviously as stated earlier belt pulley attachment which can be used in various mechanical applicants or devices by itself cannot be said to be an agricultural implement. To comprehend it in the generic term "agricultural implement", we would have to stretch the language to impermissible limit of breaking it.

4. The High Court merely observed that :

> A belt pulley, as a matter of fact, increase the utility of a tractor for agricultural operation and therefore a belt pulley falls within the meaning of an agricultural implement.

The conclusion on the face of it without anything more is incorrect and cannot be accepted as an ipse dixit.

5. Accordingly, these appeals succeed and are allowed and the judgment of the High Court is

reversed and set aside the reference invited before the High Court is rejected and the decision of the Tribunal is restored. But in the circumstances of the case there will be no order as to costs.

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