

M. Jafar Majid, Varanasi

Vs

Commissioner of Sales Tax, Lucknow

Civil Appeal Nos. 942-46 of 1980

(S. P. Bharucha, S. B. Majmudar JJ)

08.08.1996

ORDER

1. We are concerned in these appeals against the judgment of the High Court at Allahabad related to the Assessment Years 1963-64, 1965-66, 1970-71, 1971-72 and 1972-73. The issue relates to assessment for the purposes of sales tax of unspun woollen carpet yarn or "kati". The High Court placed reliance upon the judgment of this Court in *CST v. Sarin Textiles Mills* [(1975) 4 SCC 308 : 1975 SCC (Tax) 300 : (1975) 35 STC 634] to hold that "kati" was not exempt from tax.
2. In the present case, the appellant-assessee claims exemption under a notification dated 1-2-1968; the exemption is provided to yarn of all kinds, including unspun fibre used in weaving, other than, among others, woollen carpet yarn. This Court, in the judgment aforementioned, was concerned with other notifications that referred to yarn of all kinds, including unspun fibres used in weaving. The question this Court addressed itself to was whether woollen carpet yarn or "kati", which was admittedly unspun fibre was used in weaving within the contemplation of those notifications. The concept of weaving was considered and the Court then addressed itself to determining whether the process by which the woollen carpet "kati" was used in the preparation of carpets could properly be called "weaving". The facts found, on the basis of evidence, by the Appellate Commissioner and the revisional authority were referred to and on this foundation, this Court found the conclusion inescapable that woollen "kati" was neither yarn nor unspun fibre used in weaving.
3. In the instant case, there is no finding of fact arrived at by the revisional authority that is notably different from that referred to in the said judgment, except that the "kati" here is of greater length. It is difficult, in this situation, to hold that a different approach is required. Following the said judgment, therefore, the appeals are dismissed, with no order as to costs.