SUPREME COURT OF INDIA

Commissioner of Income Tax, Madras

Versus

Sundaram Spinnings Mills

(D.P. Wadhwa and A.P. Misra, JJ)

Civil Appeal No. 7434 of 1999

15.12.1999

JUDGMENT

Misra, J—

This appeal challenges the decision of the Madras High Court in reference under Section 256(1) of the Income Tax Act, 1961, in which the following question was referred by the Income Tax Appellate Tribunal at the instance of the Revenue which was adjudicated against it :

> "Whether on the facts and in the circumstances of the case, the Appellate Tribunal is justified in law in holding that the manufacture of yarn would amount to manufacture of textile within the meaning of Item 21 of the Ninth schedule and therefore the assessee is entitled to higher rate of initial depreciation ?"

2. This appeal is for Assessment Year 1976-77. The respondent assessee is a firm engaged in the business of manufacture of yarn. It claimed higher rate of initial depreciation on the machinery employed in the manufacture of yarn on the ground that its manufacturing product, viz., "yarn" falls under Item 21 of the Ninth Schedule to the Income Tax Act, 1961. The view of the assessing authority as supported by the Inspecting Assistant Commissioner was that the manufacture of cotton yarn did not amount to manufacture of "textile". Yarn was the material or component with which the "textiles" are manufactured and since in Item 21, the world "textile" is used, manufacture of yarn is not covered under Item 21. The Commissioner of Income Tax (Appeals) upheld (sic reversed) the order of the assessing authority and held that "yarn" is covered under Item 21; thus the assessee is entitled to the grant of higher rate of initial depreciation. The appellate authority relied upon a decision of the Income Tax Appellate Tribunal in the case of *Gopichand Textile Mills Ltd. v. ITO* in which it was held that manufacturing of "yarn" answers fully to the description referred in Item 21. Aggrieved by the same, the revenue preferred an appeal before the Income Tax Appellate Tribunal. The

Tribunal with reference to its earlier decision and also with reference to the decision of the Calcutta High Court in the case of CIT v. Shalimar Rope Works (P) Ltd. where item 32 and 33 of the Fifth Schedule of the Income Tax were considered, upheld the order passed by the first appellate authority. The revenue, thereafter, sought for reference of the aforesaid question to the High Court which was referred by the Tribunal under Section 256(1) but the same was also answered by the High Court against this order passed by the High Court.

3. Learned counsel for the Revenue submits that manufacture of cotton yarn does not amount to manufacture of ‘textiles" and since yarn is a material or component with which "Textiles" are manufactured it would not fall under item 21. For ready reference Item 21 of the Ninth Schedule is reproduced which reads under :

"Textiles (including those dyed, printed or otherwise processed) made wholly or mainly of cotton, including cotton yarn, hosiery and rope."

The Ninth Schedule was inserted by the Direct Taxes (Amendment) Act, The 1974 w.e.f. 1.4.1975 but has been omitted by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986, w.e.f. 1.4.1988. It is not disputed by the Revenue that in case of item manufactured by the assessee, namely, "yarn", if falls under Item 21, namely, "textiles", the assessee would be entitled to a higher rate of depreciation. We find the word "textiles" in it, is not used in isolation but is stretched by brining in more in its company through the following words "including those dyed, printed or otherwise processed made wholly or mainly of cotton, including cotton yarn, hosiery and rope". Thus we find "textiles" as is understand at common parlance or as is understood in its natural sense which is limited, is not indicated here. The legislature has deliberately widened its sphere of a purpose to give larger benefit to other items included in it by extending it to include even cotton yarn, hosiery and rope to be understood as "textile". It is always open for a legislature to stretch or shrink or to give an artificial projection or slicing to any word including one used for "goods", to make it more meaningful to subserve to the objectives it intends to achieve. That it why this inclusive clause brings in more goods, which may not strictly come within the filed of such goods. This is in order to give them similar benefit or to make them equally treated. Similarly, "hosiery" and "rope" could not, but for their inclusion under this item, have been classified as "textiles". Similarly may be "cotton yarn". It is true that manufacture of cotton yarn is a stage earlier than manufacture of "textiles" as understood commonly. In fact, cotton is the first stage, next comes "cotton yarn" which finally produces "textiles". But here we find the legislature intended to give a higher rate of initial depreciation even to the manufacture of goods which as commonly understood could not have been included objective of the legislature. It is significant that "textiles" is included under two items. One under Item 21 with which we are concerned and also under 22. This latter Item 22 includes entirely different goods than what is under Item 21. Item 22 reads as under :

"Textiles (including those dyed, printed or otherwise processed) made wholly or mainly of

jute, including jute twine and jute rope."

This even includes jute twine and jute rope to be "textile."

4. In CIT v. Shalimar Rope Works (P) Ltd. the High Court was called upon to interpret Item 33 of Fifth Schedule under the Income Tax Act, 1961. The question was whether the assessee would be entitled to a higher rate of development rebate under Section 33(1)(b)(B)(i) on the plant and on the plaint and machinery installed for the purpose of the business of manufacture and production of jute ropes and twines. Item 33 of the Fifth Schedule reads as under :

   "Textiles (including those dyed, printed or otherwise processed) made wholly or mainly of jute, including jute twine and jute rope."

   This item is similar to Item 22 in the Ninth Schedule. The Court held :

   "It is the finding of the Tribunal that the assessee has installed the plant or machinery for the business of manufacture and production of Jute ropes and jute twines. Jute ropes and jute twines are including in Item 33 of the Fifth Schedule and, therefore, it must be held that the assessee was entitled to the development rebate under clause (B)(i),".

5. The case *CIT v. Vijaya Spg. Mills Ltd.* interpreted Item 32 of the Fifth schedule which is similar to Item 21 of the Ninth Schedule. The Court held:

   "Now, the assessee is a manufacturer of cotton yarn only. The question is, whether he comes within the purview of clause 32. The Clause having first mentioned ‘textile made wholly or mainly of cotton’ proceeds to include ‘cotton yarn, hosiery and rope’, therein. The Department’s contention is that for falling under clause 32, it must necessarily be ‘textiles made wholly or mainly of cotton including cotton yarn’. But, this interpretation would make the words ‘including cotton yarn’ superfluous because before cotton can be converted into textile it must first be converted into yarn. It is difficult to conceive of textile made directly from cotton i.e., without first converting the cotton into yarn. Further, if this interpretation were to be accepted, the same interpretation must also be extended to the words ‘hosiery and rope’ occurring in the said clause. But, then, there can be no textiles made out of hosiery, which is commonly understood as referring to clothes like banians, drawers, etc., or out of rope".

6. In *CIT v. North Arcot Distt. Coop. Spg. Mills Ltd.* Item 32 of the Fifth Schedule was the subject-matter of the writ petition and the question was similar to the present case, whether cotton yarn, manufactured by the assessee is entitled to development rebate as higher rate of 35% by virtue of Section 33(1)(b)(i). In this case the assessing authority rejected the claim of the item in Item 32 but was manufacturing "cotton yarn". The Tribunal set aside and upheld the assessee’s claim to include yarn within item 32. This view of the Tribunal was upheld by the High Court.
7. Item 32 of the Fifth Schedule reads as under :

"Textiles (including those dyed, printed or otherwise processed) made wholly or mainly of jute, including jute twine and jute rope."

This similar to Item 21 of the Ninth Schedule to which the present case concerns.

8. Thus we have no hesitation to hold that "yarn" manufactured by the assessee in view of the language used in Item 21 of the Ninth Schedule, would fall within the meaning of "textiles". Thus we do not find any error in the impugned order upholding the grant of higher rate of initial depreciation on the "yarn" manufactured by the assessee. Accordingly, the present appeal fails and is dismissed. Since none appeared for the respondent, costs on the parties.