

SUPREME COURT OF INDIA

Asstt. Commissioner (Anti-Evasion-I)

Vs.

Swaraj Mazda Ltd.

(S.B. Bharucha, R.C. Lahoti and N.S. Hegde JJ.)

12.01.2000

ORDER

1. By special leave the Sales Tax authorities of the State of Rajasthan have impugned the correctness of the judgment delivered by the Rajasthan Taxation Tribunal in relation to the meaning of the words "light commercial vehicles" used in a notification dated 5th March, 1987 issued under the provisions of the Rajasthan Sales Tax Act. By reason thereof, sales tax is payable at the rate of 4.5% on light commercial vehicles whereas on other vehicles it is payable at the rate of 10%. The Tribunal rejected the contention on behalf of the Sales Tax authorities that the words 'light commercial vehicles' had to be interpreted in the context of the definitions in the Motor Vehicles Act, 1939 and that a light commercial vehicle was a light motor vehicle within the meaning of the Motor Vehicles Act which was intended to be used for commercial purposes. In other words, only a light motor vehicle that was intended to be used for commercial purposes and did not exceed 4000 kilograms in weight fell, according to the Sales Tax authorities, within the scope of the words "light commercial vehicles" and was entitled to the benefit of the aforesaid notification. The light commercial vehicles that are manufactured by the respondents weigh more than 4000 kilograms. The Tribunal rejected the contention on behalf of the Sales Tax authorities that the respondents' light commercial vehicles were not entitled to the benefit of the said notification.

2. Before us, learned Counsel for the Sales Tax authorities repeated the argument that was advanced before the Tribunal. In his submission, only a light motor vehicle as defined in the Motor Vehicles Act that was to be used for commercial purposes was entitled to the rate specified in the said notification.

3. The respondents, as the Tribunal found, manufacture light commercial vehicles pursuant to licences granted by the Government of India. These licences specifically mention "light commercial vehicles". The said notification also refers to "light commercial vehicles". It does not refer to light motor vehicles which are used for commercial purposes. It applies, therefore, to the respondents' light commercial vehicles. The Tribunal was right in saying that the trade and the Government of India well understood what the words "light commercial vehicles" meant, These are the words used by the said notification issued under the Rajasthan Sales Tax Act and they must be similarly read. There is no justification for importing the definitions of the Motor Vehicles Act to construe them.

4. If the contentions of the Sales Tax authorities were to be accepted, it would mean that the same vehicle would be taxed at the rate of 10% if it was intended to be used for a private purpose but at

the rate of 4.5% if it was intended to be used for commercial purposes. If so, one would have expected the Sales Tax authorities to require, by the said notification or otherwise, the purchaser of the vehicle to declare how he proposed to use it, and what the consequence of use other than that declared would be. There is no such requirement.

5. It appears to us that the Sales Tax authorities who issued the said notification knew very well what vehicles they were granting at the rate of 4.5% to. It is only those who enforce the said notification who take a contrary view to enhance sales tax revenues.

6. The appeals are dismissed with costs.