

SUPREME COURT OF INDIA

State of Punjab & Ors.

Vs.

Shital Fibres Ltd. & Anr.

C.A.No.1406 of 2008

(S.H.Kapadia & B.Sudershan Reddy,JJ.)

18.02.2008

ORDER

(Arising out of SLP(Civil.)No. 10196/2007)

1. Leave granted.

2. This civil appeal is directed against the judgment of Punjab and Haryana High Court dated 29th November 2006 in CWP No. 14997/05 and connected four writ petitions. Five writ petitions were filed against the show cause notice issued under Sec.51 of Punjab Valuation Added Tax Act 2005. The question raised in the show cause notice was weather blankets came under the description of "textile fabrics" which were exempted goods. According to the Department the said items in question were 'made-ups' and therefore taxable whereas according to the assessee the items came under the category of 'textile fabrics'. -2- In our view the aforesaid dispute warrants adjudication by the Assessing Officer and therefore the High Court should not have quashed the show cause notice at the threshold. We express no opinion on the merits. We keep that question open. Since the dispute warrants adjudication by the competent authority, we hereby set aside the impugned judgment and remit the matter to the Assessing Officer for determination of the said issue in accordance with law. Contentions on both sides are expressly kept open. Accordingly the impugned judgment is set aside and the Department's civil appeal stands allowed with no order as to costs.