

# ANDHRA PRADESH HIGH COURT

Alimchand Topandas Oil Mills

Vs

State of Andhra Pradesh

(S.O Reddi,C.J. and Punnayya, J.)

06.02.1976

## JUDGMENT

### **S. Obul Reddi, C.J.**

1. In these two revisions, the only question that arises for consideration is whether the commodity in question is "cotton waste". The Tribunal and the Deputy Commissioner who revised the assessment suo motu were of the opinion that the commodity is neither cotton nor cotton waste, but cotton lint, which is taxable as general goods under Section 5(1) of the Andhra Pradesh General Sales Tax Act at 3 per cent.
2. The learned Counsel, Mr. Venkatrama Reddy, appearing for the petitioner contended that the Tribunal and the Deputy Commissioner erred in holding that the commodity in question comes under the category of general goods, when the facts placed clearly show that it is only cotton waste taxable at 1 per cent during the relevant assessment years as per entry 69 of Schedule I.
3. The petitioner is a dealer in groundnuts, oil and oilcake at Adoni. The Deputy Commissioner, while revising the order of the Commercial Tax Officer, Adoni, held that the commodity in question is not cotton waste, but cotton lint. That view of the Deputy Commissioner was upheld by the Tribunal holding that it was neither cotton waste nor cotton.
4. Item 8 of the Third Schedule pertains to tax liability on cotton at 3 paise in the rupee. "Cotton" as defined means "cotton, that is to say, all kinds of cotton (indigenous or imported) in its unmanufactured state, whether ginned or unginned, baled, pressed or otherwise, but not including cotton waste". The petitioner purchases cotton-seeds and then processes them for the purpose of removing small fibres that stick on to the seeds. In other words, after the ginning of cotton, he purchases the seeds, and for the purpose of manufacturing oil, cotton-seeds are cleaned and processed. In that process, the fibres that stick on to the seeds are separated. It is the fibre that is so removed that is now sought to be taxed, treating it as cotton lint, which is neither cotton nor cotton waste. Entry 8 speaks only of cotton and cotton waste and the commodity "cotton waste"

is not defined in item 69 of Schedule I. Whatever comes out as waste after the ginning of raw cotton would be cotton waste within the meaning of item 8 of Schedule III. The petitioner sent the commodity so extracted by the process used for separating the fibres from the seeds to the Reader in Fibre Science, Department of Chemical Technology, University of Bombay, and the Consulting Editor, Textile Asia, the Asian Textile Monthly from Hong Kong. His opinion reads:

This is to certify the sample of cotton fibres produced before me by M/s. Alimchand Topandas, Adoni (A.P.), appears to me to be cotton waste with a staple length much below the optimum required for direct spinning into yarn on any machine.

The main use for this type of cotton waste is in the manufacture of rayons after chemically processing the fibres, dissolving in a suitable solvent and then regenerating into rayon filaments. Visco rayon is being manufactured from imported wood pulp and, in my opinion, cotton waste like the sample mentioned above can be a suitable substitute for the imported wood pulp for the manufacture of rayons.

5. The Deputy Commissioner too, had sent the sample of the commodity to the Cotton Specialist, Cotton Research Station, Nandyal. The opinion given by him is that the seed sample is not lint which can be used for normal spinning purposes but it belongs to a raw material called linters which can be put to other industrial uses after processing. So, this opinion of the expert of the Cotton Research Station also goes to show that it is some kind of waste which could be put to other uses after due processing. The meaning of "cotton waste" as given in the Standard Work on "Cotton" by Brown published by the McGraw Hill Book Company, New York and London, at page 538, may be read:

Cotton waste from spinning mills consists principally of short fibres that have been rejected by machines in the process of combing and carding; and also floor sweepings, odds and ends from weaving, and various scraps.

6. It is thus clear that in the process of separating the seeds from the fibres that this waste product is taken out. The fact that waste cotton could be put to use to several purposes including as raw material in rayon manufacturing after due processing is not a ground for holding that it is neither cotton nor cotton waste, but some other product, which is exigible to tax under Section 5(1) of the Act. Cotton and cotton waste have distinct meanings. We are, therefore, unable to agree with the view expressed by the Tribunal that the commodity is a product called "lint", exigible to tax as general goods.

7. In the result, the revisions are allowed with costs.

