

Khataisons Vs. State of Kerala

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Court : Kerala

Decided On : May-28-1998

Reported in : [2003]133STC580(Ker)

Judge : Om Prakash, C.J. and; J.B. Koshy, J.

Acts : Kerala General Sales Tax Act, 1963

Appeal No. : T.R.C. Nos. 92, 93, 94 and 95 of 1997

Appellant : Khataisons

Respondent : State of Kerala

Advocate for Def. : V.V. Asokan, Special Government Pleader for Taxes

Advocate for Pet/Ap. : P. Balachandran, Adv.

Disposition : Revision dismissed

Judgement :

Om Parkash, C.J.

1. Heard counsel for the parties.

2. These revision cases, briefly, raise a common but short question for consideration whether carpets in which the assessee is dealing, fall under item

100B or under item 3 of the Third Schedule appended to the Kerala General Sales Tax Act, 1963 (for short, 'the Act').

3. The meaning of the word 'pile' as per the Concise Oxford Dictionary is 'soft hair, down, wool of sheep, soft surface on cloth especially on velvet, plush, etc. or on carpet'. The submission of learned counsel for the assessee is that the carpets the assessee deals in, are not the pile carpets, but the pile carpet is one which has layers one upon another. Layers in carpet weaving are unknown and, therefore, we reject the contention of learned counsel for the assessee that pile carpet means a carpet woven by wool, a pattern of which contains layers one upon another. Pile carpets--in common parlance--are carpets, which have the smooth surface irrespective of the fact whether they are made of wool or any other material. Therefore, we are of the view that the assessee deals in pile carpets.

4. Item 100B, First Schedule to the Act and item 142, First Schedule to the Act, telescope into each other. Both relate to 'pile carpet'. The question for consideration is whether pile carpets, the assessee deals in, fall under item 100 B/142 of the First Schedule or under item 3, Third Schedule. Entry under item 3, Third Schedule is as follows :--

'Handloom cloth'.

5. The Appellate Tribunal, by the impugned judgment, rejected the contention of the assessee saying that when a particular entry is provided by the statute, general entries are to be ignored. We fully agree with the approach of the Appellate Tribunal. When there is a particular entry to cover up a commodity, there is no need for the assessing officer to go into the general entries. Pile carpets, the assessee deals in, do specifically fall under entry 100B/142 of the First Schedule and, therefore, entry under item 3 of the Third Schedule will not attract. Otherwise also, concept of handloom cloth is entirely different from that of pile carpet. In common parlance as well as in commercial sense, pile carpet is never treated as cloth or handloom cloth.

For the above reasons, all the revisions fail and are, dismissed. Order on C.M.P. No. 1893 of 1997 in T.R.C. No. 92 of 1997 dismissed.

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