

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4246 OF 2006

M/s Allied Agencies

.. Appellant(s)

Versus

Commissioner of Trade Tax, Uttar Pradesh

.. Respondent(s)

O R D E R

1. The appellant is a dealer registered under the Uttar Pradesh Sales Tax Act, 1948 (now renamed as the Uttar Pradesh Trade Tax Act, 1948) (for short, "the Act") and is engaged in the business of canvas cloth made of jute. In this appeal we are concerned with the assessment years, 1993-94, 1994-95, and 1995-96.

2. The assessee had claimed exemption from payment of sales tax under the Act on the ground that he is a dealer in jute and canvas cloth and the benefit of the Notification issued by the State Government in exercise of its powers under Section 4(a) of the Act should be made applicable to him.

3. The Assessing Authority dismissed the claim made by the appellant/assessee and has imposed tax liability of Rs.6,08,883.46/-, Rs.15,38,589/- and Rs.3,65,538/- for the assessment years 1993-94, 1994-95 and 1995-96 respectively. The appellant/assessee being aggrieved by the order passed by the Assessing Authority has preferred appeals before the First Appellate Authority.

4. The First Appellate Authority had also dismissed the claim made by the appellant/assessee for the assessment years 1994-95 and 1995-96 but reduced the tax liability by Rs.29,436.30/- for the assessment year 1993-94.

5. The appellant/assessee being aggrieved by the orders passed by the First Appellate Authority had preferred second appeal before the Trade Tax Tribunal, Kanpur (for short, "the Tribunal"). The Tribunal after considering the contentions canvassed by the learned counsels and examining the documents on record observed that the Canvas Cloth dealt by the assessee is made of Jute. Tribunal further observed that the Jute Canvas Cloth is a Jute Cloth and therefore is taxable under the Act.

6. The appellant/assessee being aggrieved by the order so passed by the Tribunal had preferred Trade Tax Revision case before High Court. The High Court by its impugned judgment and order has dismissed the appeals preferred by the appellant/assessee. Being aggrieved by the impugned

judgment and order, the appellant/assessee is before us in these appeals.

7. We have heard learned counsel for the parties to the lis.

8. To answer the issues canvassed by the learned counsel for the appellant, we need not to notice the Notification issued by the State Government, dated 31.01.1985. The relevant Entry is Entry 53 which talks about 'Textiles'. Entry 53 specifically excludes durries, carpets, druggets, hosiery goods, readymade garments, hessian or jute cloth etc., but includes goods specified in annexure to the said Entry. The goods which are included within the meaning of textiles are cotton fabrics of all varieties, rayon or artificial silk fabrics including staple fibre fabrics of all varieties, woolen fabrics of all varieties, fabrics made of a mixture of any two or more of the above fibres, viz. cotton, rayon artificial silk staple fibre or wool and lastly canvas cloth, tarpaulins and water proof cloth.

9. Learned senior counsel appearing for the appellant/ assessee submits that the appellant/ assessee purchases canvass cloth and therefore, it is eligible for exemption under the aforesaid Notification. However, the fact finding authorities, namely; the Assessing Authority, the First Appellate Authority and the Tribunal have carefully examined the facts and held that the assessee purchases Jute Canvas Cloth which is a Jute Cloth and therefore, excluded from the meaning of expression 'Textiles' under Entry 53 of the Notification and exigible to tax under the Act. We do not see any illegality or perversity in the orders passed by the tribunal and the order passed by the High Court.

10. In the result, we dismiss the appeal filed by the appellant. No order as to cost.

.....J.
[H.L. DATTU]

.....J.
[A.K. SIKRI]

NEW DELHI,
FEBRUARY 20, 2014.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4958 OF 2007

|M/s. Vinod Kumar Sunil Kumar |.. Appellant(s) |

Versus

|Commissioner of Trade Tax, |.. Respondent(s) |
|Uttar Pradesh |

W I T H

CIVIL APPEAL NO. 5184 OF 2007

O R D E R

1. Since the question of law involved in these two appeals are common, the same are being disposed of by this common order.

2. The appellant/assessee is a dealer registered under the Uttar Pradesh Sales Tax Act, 1948 (now renamed as the Uttar Pradesh Trade Tax Act, 1948) (for short, "the Act') and is engaged in the business of cloth made of jute. In these two appeals we are concerned with the assessment years, 1987-88 and 1988-89.

3. The appellant/assessee had claimed exemption from payment of sales tax under the Act on the ground that he is a dealer in jute and canvass cloth and the benefit of the Notification issued by the State Government in exercise of its powers under Section 4(a) of the Act should be made applicable to him.

4. The Assessing Authority dismissed the claim made by the appellant/assessee and has imposed tax liability of Rs.15,058/- and Rs.1,10,227.36/- for the assessment years 1987-88 and 1988-89 respectively. The appellant/assessee aggrieved by the order passed by the Assessing Authority has preferred appeals before the First Appellate Authority. However, the First Appellate Authority had partly allowed the appeal filed by the assessee and reduced the tax liability to Rs.14,560.92/- and Rs.1,10,030.00/- for the assessment years 1987-88 and 1988-89 respectively.

5. The Revenue being aggrieved by the orders passed by the First Appellate Authority had preferred second appeal before the Trade Tax Tribunal, Kanpur (for short, "the Tribunal"). The Tribunal after considering the contentions canvassed by the learned counsels and examining the documents on record observed that the appellant/assessee purchased Canvas Cloth and sold the same as Canvas Cloth and thus allowed the exemption on sale of Canvas Cloth.

6. The Revenue being aggrieved by the order so passed by the Tribunal had preferred Trade Tax Revision case before High Court. The High Court by the impugned judgment and order has allowed the appeal(s) preferred by the Revenue and set aside the order so passed by the Tribunal. Being aggrieved by the impugned judgment and order, the appellant/assessee is before us in these appeals.

7. We have heard Shri Tanmaya Agarwal, learned counsel for the appellant and Shri Ratnakar Dash, learned senior counsel for the State.

8. To answer the issues canvassed by the learned counsel for the appellant, we need not to notice the Notification issued by the State Government, dated 31.01.1985. The relevant Entry is Entry 53 which talks about 'Textiles'. Entry 53 specifically excludes commodities like durries, carpets, druggets, hosiery goods, ready-made garments, jute-cloth, cotton rayon etc. but includes, specifically apart from others, canvass cloth, tarpaulins and water proof cloth.

9. The Tribunal, which is the last fact-finding Authority in the

HON'BLE MR. JUSTICE A.K. SIKRI

For Appellant(s) Mr. M.S. Ganesh, Sr. Adv.
 Mr.Chirag M.Shroff,Adv.

 Mr. Tanmaya Agarwal, Adv.
 Mr. Vinay Garg, Adv.

For Respondent(s) Mr. Ratnakar Dash, Sr. Adv.
 Mr. Gaurav, Adv.
 Mr. Ravi Prakash Mehrotra, Adv.
 Mr. Kamalendra Mishra,Adv.
 Mr. Gunnam Venkateswara Rao

UPON hearing counsel the Court made the following
 O R D E R
C.A. No. 4246 of 2006

The appeal is dismissed in terms of the signed order. No order as to cost.

C.A. Nos. 4988/2007 & 5184 of 2007

Applications for discharge of Advocate are dismissed.

The appeals are allowed in terms of the signed order.

| [Charanjeet Kaur] | | [Vinod Kulvi] |
|Court Master | |Asstt. Registrar |

[Two signed orders are placed on the file]