

Rajasthan Tax Board, Ajmer

Appeal No. 1676/2008/Jaipur

M/s Jagjanani Textiles
Sanganer, Jaipur
Versus

Appellant

(i) State Level Screening Committee,
Jaipur
(ii) Commissioner, Commercial Taxes
Rajasthan, Jaipur
(iii) Commercial Taxes Officer, Special
Circle (II), Jaipur

Respondent

D.B.

Khem Raj, Chairman
Sunil Sharma, Member

Present :-

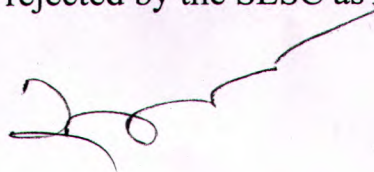
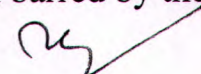
Shri D Kumar
Advocate for the Appellant
Shri R.K. Singh
Dy. Govt. Advocate for the Respondent

Date of Judgement : 12-08-2016

JUDGEMENT

1. This appeal has been filed by the appellant before the Rajasthan Tax Board (for brevity "the Board") against the order of the State Level Screening Committee (for short, "the SLSC"), dated 07-03-2008, denying benefits of exemption from tax to the appellant on its product 'yarn' on premise of it not being 'textile' under RST/CST exemption scheme, 1998 (for brief, "1998 Scheme") of the Rajasthan Sales Tax Act, 1994, (for short, "the Act")

2. The brief facts of the case are that the appellant set up an industrial unit for manufacture of Yarn and applied for exemption from tax under 1998 Scheme under Entry 2 of Schedule B of the Scheme as a Textile unit, which was taken up for consideration by the SLSC in its meeting held on October 21, 2000 and found it eligible under entry no.1 of 1998 Scheme for benefit to the extent of 100% of fixed capital investment (for short, "FCI") for a period of 11 years. However, seeking a rectification of the above order from the SLSC, the appellant contested that the unit under consideration under Entry 2 of the aforesaid Scheme being a Textile unit was entitled to the exemption benefits to the limit of 125% for a period of 13 years, but its claim was rejected by the SLSC as having been barred by the limitation period.

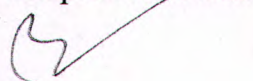
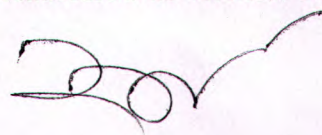
 

Aggrieved by this order, the appellant preferred appeal, bearing no.1189/2000, before the Board which by its order dated 26, December, 2002 granted relief to the appellant that its impugned application lay within the limitation period and remanded the case to the SLSC for fresh decision.

3. The SLSC after giving opportunity of being heard considered the case of the appellant afresh and enhanced the quantum of the eligible FCI of the unit from Rs.105. 01 lacs to Rs.1,377.75 lacs but rejected the assertion of the appellant for treating its product Yarn as Textile, therefore denied it benefit of tax exemption which otherwise would have been available as textile industry.

4. Arguing the case on behalf of the appellant, the learned counsel, Shri D Kumar, contended that the SLSC ignored the binding judgment of the Division Bench of the Board given in the case of M/S Rajasthan Spinning & Weaving Mills Ltd.,Kharigram(Gulabpura), District Bhilwara Vs.Commercial Taxes Officer, Special Circle, Udaipur, reported in (1985) 5, RTJS 82; and, said that discussing the question that arose in the appeal (cited supra) over whether the appellant company along with its satellite unit manufacturing yarn was covered by the term “ textile industry ” held that “ the appellant company and its subsequently established unit manufacturing yarn came within the ambit of textile industry and even otherwise such industrial units are understood as textile industry in commercial circles ” He pointed out that in the aforesaid judgment the bench noticed that a specific argument of the learned counsel of the appellant company remained un rebutted that these units were being controlled by the Textile Commissioner. He prayed for grant of exemption benefits available to textile units, in present case, to the extent of 125% of the FCI for thirteen years.

5. Appearing for the Revenue, learned counsel, Shri Ram Karan Singh, began argument on the note that reconsidering the case of the appellant's unit under the 1998 Exemption Scheme, the SLSC referred to the definition of the term “ textile ” under the Textile Committee Act of 1963 and the decision of the Hon'ble Supreme Court of India in the case of Meenaxi Mills Limited V/s Union of India, Commissioner, Commercial Taxes Department as appearing in the relevant extracts of SLSC minutes dated March 7, 2008, it however rightly decided that “Yarn” was not included under “Textiles” in the Rajasthan Sales Tax Act,1994 and could not be classified as textile. However, on scrutiny the previous sanction of the



eligible FCI at RS.105440 lacs was enhanced to Rs.1377.75 lacs for the unit. He averred that the SLSC's decision to not treat Yarn as "Textile" was taken in context of the provisions of the Act which overrode definitions in other Acts or rulings.

6. We heard rival arguments of both the parties to the issue and have gone through the aforesaid judgments of the Hon'ble Supreme Court and DB of the Board (cited supra) and the record placed before us. The analysis of the order of the SLSC under conflict reveals that the SLSC acted under the belief that since whole edifice of the case raised on the legal framework of Exemption Scheme 1998 was constructed under the provisions of the Act, decision in regard to classification of product Yarn as to whether or not it was Textile should be considered only in conformity with the provisions of the Act.

7. The contention basically addresses to the vexatious issue whether Textile includes Yarn for the purpose of grant of exemption from tax under 1998 Exemption Scheme. As has been set out in the Annexure " B" of the aforesaid Scheme detailing eligible extent of exemption in column 2 (a) several entries have been mentioned including in "Textiles" which would be entitled to tax exemption to the extent of 125% of eligible FCI for thirteen years. Also, there is a Negative List of Ineligible Industries under Annexure "A" of Scheme 1999 which excludes those industries from the ambit of the aforesaid Scheme which do not qualify for exemption from tax but it does not mention or include Yarn therein, clearly demonstrating that the legislature had no intention to exclude Yarn from "Textile". The SLSC could not arrive at a finding under which section, rule, or notification under the provisions of the Act, differentiation had been made between Yarn and Textile for the purpose of determining ineligibility of Yarn for tax exemption benefits in the given scenario.

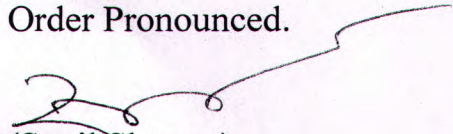
Moreover, when the Act is silent on distinguishing Textile from Yarn, the definition of Textile as given in the Textile Committee Act, 1963 would be appropriate to consider this issue, of which its section 2(g) says that "Textile" " means any fabric or cloth or yarn or garment or any other article made wholly in part of (i) cotton; or (ii) wool; or (iii) silk; or (iv) artificial silk or other fibre, and includes fibre."

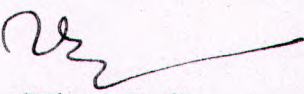


8. After going through the factual and legal matrix of the impugned appeal on hand, we find that the SLSC erred in not granting tax exemption to the aforesaid unit on its product Yarn against the sanctioned benefits of eligible FCI and time period of operation, which the Bench decides in favour of the appellant unit. As such, it is held that the "Textile" includes "Yarn."

9. The SLSC is directed to convene a meeting to decide the impugned matter in the light of the decision in foregoing para (8) of the judgment. The concerned Assessing Authority is directed to coordinate meeting with the SLSC.

10. Order Pronounced.


(Sunil Sharma)
Member


(Khem Raj)
Chairman