

A

UNION OF INDIA AND ORS.

v.

GUJARAT WOOLLEN FELT MILLS

April 7, 1977

B

[M. H. BEG, C.J., A. C. GUPTA AND P. S. KAILASAM, JJ.]

Central Excises and Salt Act, 1944—Schedule I Entry 21—Non-woven felts manufactured out of woollen fibres by machine pressing, whether “woollen fabrics” for the purpose of levy of excise duty—Rule of interpretation of items in a statute.

C

An excise duty of Rs. 55055.87 was levied and collected from the respondent-firm by the Excise authorities treating the non-woven felts manufactured by them as “woollen fabrics” covered by entry 21 in Schedule I to the Central Excises and Salt Act, 1944. The Gujarat High Court allowed the writ petition filed by the respondent and held that the respondent's products were not “woollen fabrics” and directed the refund of the entire sum collected as excise duty.

Dismissing the appeal by certificate to this Court,

D

HELD : (1) The well-known rule in interpreting items in statutes is that resort should be had not to the scientific or the technical meaning of such terms but to their popular meaning or the meaning attached to them by those dealing in them, that is to say, their commercial sense. [474 A-B]

Commissioner of Sales Tax, Madhya Pradesh, Indore v. M/s. Jaswant Singh Charan Singh, AIR 1967 SC 1454, applied.

E

(2) Fabric means woven material. Entries 19 to 22 in the Schedule deal with fabrics. Entry 21 describes woollen fabrics as meaning all varieties of fabrics manufactured out of wool, barring the exceptions mentioned, including blankets, lohis, rugs, shawls and embroidery in the piece in strips or in motifs. The word “fabric” in entry 21 has been used to mean woven material in which sense it is popularly understood. The term “woollen fabrics” in that sense was not wide enough to cover non-woven material which is wool-based. Blankets, rugs and shawls etc. have been specifically included in the entry out of abundant caution to indicate that “woollen fabrics” in entry 21 means not only woollen garments but also woollen material used as covering or for similar other purposes. [473 H, 474 F-G]

F

(3) It is plain from entry 21 in Schedule I to the Central Excises and Salt Act, 1944 that the respondent's products did not fall within it as they are non-woven felts from woollen fibres. [474 C]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1037 of 1971.

(From the Judgment and Order dated the 17th June, 1971 of the Gujarat High Court in Special Civil Application No. 112/67).

G

V. P. Raman, Addl. Sol. Genl. and Girish Chandra, for the appellants.

G. N. Dikshit and R. N. Dikshit, for the respondent.

The Judgment of the Court was delivered by

H

GUPTA, J.—The respondent is a partnership firm manufacturing non-woven felts from woollen fibres which are utilised for the purpose of filtration in heavy industries. Between August 25, 1965 and January 5, 1967 the Excise authorities compelled the respondent to pay Rs. 55,055/87 p. as excise duty on its products. The respondent

filed a writ petition in the High Court of Gujarat at Ahmedabad for quashing the order levying excise duty on the felts manufactured by the respondent treating them as 'woollen fabrics' covered by entry 21 in Schedule I to the Central Excises and Salt Act, 1944 (hereinafter referred to as the Act). The High Court allowed the writ petition holding that the respondent's products were not 'woollen fabrics' and directed refund of the sum of Rs. 55,055/87 p. collected as excise duty from the firm. The Union of India has preferred this appeal on certificate of fitness granted by the High Court questioning the correctness of the decision.

The only question in the appeal is whether the felts manufactured by the respondent are "woollen fabrics" within the meaning of entry 21 in the first schedule to the Act. The writ petition describes the process of manufacture and states that the thickness of the felts produced varies from 1 mm. to 50 mms. according to the specification of the customers and that these are really machine pressed raw wool-waste. It is stated further that the felts manufactured by the process described are neither sheets nor fabrics, they are not material from which garments could be prepared nor they could be used as covering or for similar other purposes. Entry 21 in the first schedule to the Act reads :

"21. WOOLLEN FABRICS—

"Woollen fabrics" means all varieties of fabrics manufactured wholly of wool or which contain 40 per cent, or more by weight of wool and includes blankets, lohis, rugs, shawls and embroidery in the piece, in strips or in motifs :

Provided that in the case of embroidery in the piece, in strips or in motifs, the percentage referred to above shall be in relation to the base fabrics which are embroidered—

- | | |
|---|--|
| (1) Woollen fabrics, other than embroidery in the piece, in strips or in motifs. | Ten percent.
ad valorem. |
| (2) Embroidery in the piece in strips or in motifs, in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power. | The duty for the time being leviable on the base fabrics, if not already paid, plus twenty percent.
ad valorem. |

Explanation.—"Base fabrics" means fabrics falling under sub-item (1) of this Item which are subjected to the process of embroidery."

Are the products of the respondent's factory woollen fabrics ? Fabric means woven material. The articles manufactured by the respondent, as already stated, are non-woven felts from woollen fibres. It is contended on behalf of the appellant, Union of India.

- A that in a technical sense the felts manufactured by the respondent would still be woollen fabrics. The well-known rule in interpreting items in statutes like the one we are concerned with is that "resort should be had not to the scientific or the technical meaning of such terms but to their popular meaning or the meaning attached to them by those dealing in them, that is to say, to their commercial sense". (*Commissioner of Sales Tax, Madhya Pradesh, Indore v. M/s. Jaswant Singh Charan Singh*)⁽¹⁾. The High Court has held that a trader dealing in woollen fabrics would not regard the respondent's products as woollen fabrics, but it does not appear that there is any evidence on the record of the case to support the finding. However, an inquiry regarding the meaning of the term woollen fabrics as commercially understood would be relevant only when there is doubt as to the sense in which the term has been used in entry 21; it seems to us plain from the entry read as a whole that the respondent's products did not fall within it. Entries 19 to 22 in the schedule all deal with fabrics. Entry 19 deals with cotton fabrics which is stated to cover, barring the exceptions specified, all varieties of fabrics manufactured either wholly or partly from cotton and includes, dhoties, sarees, chadders, bed-sheets, bed-spreads etc. Entry 20 relates to silk fabrics which is said to mean all varieties of fabrics manufactured either wholly or partly from silk with certain exceptions and includes embroidery in the piece, in strips or in motifs. Entry 22 relates to rayon or artificial silk fabrics which also is said to mean all varieties of fabrics manufactured either wholly or partly from rayon or artificial silk with some exceptions and includes embroidery in the piece, in strips or in motifs etc. In this group, entry 21 describes woollen fabrics as meaning all varieties of fabrics manufactured out of wool, barring the exceptions mentioned, including blankets, lohies, rugs, shawls and embroidery in the piece, in strips or in motifs. If the term 'woollen fabrics' in this entry had been used in its technical or scientific sense and, if in that sense, it was wide enough to cover non woven material which is wool-based, then it is difficult to explain why the entry should specifically mention blankets, rugs and shawls as being included within it. No one could possibly be in any doubt in respect of these few items if the term was so pervasive, and there was no reason for singling out these specific objects. On the contrary, the mention of these items suggests that the word 'fabrics' in entry 21 has been used to mean woven material in which sense it is popularly understood, and blankets, rugs and shawls etc. have been specifically included in the entry out of abundant caution to indicate that 'woollen fabrics' in entry 21 means not only woollen garments but also woollen material used as covering or for similar other purposes. We therefore find no reason to take a view different from that taken by the High Court.
- G

The appeal is dismissed with costs.

S.R.

Appeal dismissed.