A

PORRITTS & SPENCER (ASIA) LTD.

v.

STATE OF HARYANA

September 6, 1978

[P. N. BHAGWATI, V. D. TULZAPURKAR AND R. S. PATHAK, JJ.]

B

Punjab General Sales Tax Act, 1948, *Item* 30 *of Schedule 'B' to the Act—Whether 'dryer felts' fall within the category of "all varieties of cotton, woollen or silken textiles."*

The 'dryer felts' manufactured by the appellant assessee were held by the assessing authorities to be not 'textiles' within the meaning of Item 30 of Schedule 'B' to the Punjab General Sales Tax Act, 1948 and thereafter, on appeal the Tribunal and on reference the High Court also confirmed this view.

C

Allowing the appeal by special leave, the Court

HELD : 1. 'Dryer felts' are 'textiles' within the meaning of that expression in Item 30 of Schedule 'B' to the Punjab General Sales Tax Act, 1948. [551 E]

2. In a taxing statute words of every day use must be construed not in their scientific or technical sense but as understood in common parlance, meaning "that sense which people conversant with the subject-matter with which the statute is dealing would attribute to it." [548 A, F]

D

Ramavatar Budhaiprasad v. *Assistant Sales Tax Officer, Akola,* A.I.R. 1961 SC 1325, *M/s. Motipur Jamindary Co. Ltd.* v. *State of Bihar,* A.I.R. 1962 SC 660, *State of West Bengal* v. *Washi Ahmed.* [1977] 3 S.C.R. 149 and *Madhya Pradesh Pan Merchant's Association, Santara Market, Nagpur* v. *State of Madhya Pradesh,* 7 S.T.C. 99 at 102 referred to.

E

Gretfell v. *IR.C.* [1876)] 1 Ex. D. 242 at 248, *Planters Nut and Chocolate Co. Ltd.* v. *The King* [1951] 1 *DLH* 385 *and* 200 *Chests of Tea,* (1824) 9 Wheaton (U.S.) 430 at 438; quoted with approval.

Where a word has a scientific or technical meaning and also an ordinary meaning according to common parlance, it is in the latter sense that in a taxing statute the word must be held to have been used, unless contrary intention is clearly expressed by the Legislature. The reason is that the Legislature does not suppose our merchants to be "naturalists, or geologists, or botanists". In the instant case the word 'textiles' is not sought by the assessee to be given a scientific in preference to its popular meaning. It has only one meaning namely a woven fabric and that is the meaning or technical meaning which it bears in ordinary parlance. [550 E-G].

F

G

3. The concept of 'textiles' is not a static concept. It has, having regard to newly developing materials, methods techniques and processes, a continually expanding content and new kinds of fabric may be invented which may legitimately, without doing any violence to the language be regarded as textiles. [550 G-H]

H

The word 'textiles' is derived from Latin 'texere' which means 'to weave' and it means woven fabric. When yarn, whether cotton, silk, woollen rayon, nylon or of any other description or made out of any other material is woven into a fabric, what comes into being is a 'textile' and is known as such. Whatever be

A the mode of weaving employed, woven fabric would be 'textile'. What is necessary is no more than meaning of yarn and weaving would mean binding or putting together by some process so as to form a fabric. A textile need not be of any particular size or strength or weight. The use to which it may be put is also immaterial and does not bear on its character as a textile. The fact that the 'dryer felts' are used only as absorbents of moisture in the process of manufacture in a paper manufacturing unit, cannot militate against 'dryer felts' B falling within category of textiles, if otherwise they satisfy the description of textiles. The Customs Tariff Act, 1975 refers to textile fabrics in this sense. [549 C-D, E-F, G-H]

Ramavatar Budhaiprasad v. *Assistant Sales Tax Officer Akola*, A.I.R. 1961 SC 1325 and *M/s. Motipur Jamindary Co. Ltd.* v. *State of Bihar*, A.I.R. 1962 SC 660, distinguished.

C CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2212 of 1977.

Appeal by Special Leave from the Judgment and Order dated 11-5-1977 of the Punjab and Haryana High Court in General Sales Tax Reference No 16/74.

A. K. Sen, A. R. Lal and *Ashok Grover* for the Appellant.

D *J. D. Jain* and *M. N. Shroff* for the Respondent.

The Judgment of the Court was delivered by

BHAGWATI, J.—The short question which arises for determination in this appeal is whether 'dryer felts' manufactured by the assessee fall E within the category of "all varieties of cotton, woollen or silken textiles" specified in Item 30 of Schedule 'B' of the Punjab General Sales Tax Act, 1948 (hereinafter referred to as the Act). If they are covered by this description, they would be exempt from Sales Tax imposed under the provisions of the Act, otherwise they would be liable to sales tax. The assessing authorities held that the 'dryer F felts' manufactured by the assessee were not "textiles" within the meaning of Item 30 of Schedule 'B' and they were, therefore, not exempt from sales tax. The Tribunal, on appeal, also took the same view and rejected the claim of the assessee to exemption from sales tax in respect of sales of 'dryer felts'. The assessee thereupon G moved the Tribunal for making a reference to the High Court and on this application, the following question of law was referred by the Tribunal for the opinion of the High Court :

> "Whether on the facts and circumstances of the case, the products manufactured by the petitioner are not covered by Item 30 of Schedule 'B' of the Punjab General Sales Tax Act, H 1948, and therefore, not exempt from sales tax both under the Punjab General Sales Tax Act, 1948 and the Central Sales Tax Act, 1956."

The Reference was heard by a Division Bench and on a difference of opinion between the two Judges constituting the Division Bench, the Reference was placed before a third Judge. The third Judge held that 'dryer felts' were not included in the expression 'textiles' occurring in Item 30 of Schedule 'B' of the Act and were, therefore, not exempt from sales tax and on this view the question referred to the High Court was answered against the assessee and in favour of the Revenue. The assessee thereupon preferred the present appeal with special leave obtained from this Court.

It is clear from section 5 sub-section (1) of the Act that it levies sales tax on the taxable turnover of a dealer subject to the provisions of the Act. Sub-section (2) of section 5 defines "taxable turnover" to mean that part of a dealer's gross turnover during any period which remains after deducting therefrom *inter alia* his turnover on the sale of goods declared tax free under section 6. Section 6 provides that no tax should be payable on the sale of goods specified in the first column of Schedule 'B' subject to the conditions and exception, if any, set out in the corresponding entry in the second column thereof and no dealer shall charge sales tax on the sale of goods which are declared tax-free from time to time under this section. Schedule 'B' sets out in the first column, various categories of goods which are declared tax-free under section 6 and Item 30 specifies the following category of tax-free goods :

> "All varieties of cotton, woollen or silken textiles including rayon, artificial silk or nylon whether manufactured by handloom or powerloom or otherwise but not including pure silk fabrics, carpets, druggets, woollen durees and cotton floor durees."

The question is : whether 'dryer felts' manufactured by the assessee fell within this category of goods so as to be exempt from sales tax ? Can it be said that 'dryer felts' constitute a variety of cotton or woollen textiles ? The answer to the question depends on what is the true meaning of the word "textiles" as used in Item 30 of Schedule 'B'.

Now, the word 'textiles' is not defined in the Act, but it is well settled as a result of several decisions of this Court, of which we may mention only a few, namely, *Ramavatar Budhaiprasad* v. *Assistant Sales Tax Officer, Akola*(1) and *M/s Motipur Jamindary Co. Ltd.* v. *State of Bihar*(2) and *the State of West Bengal* v. *Washi Ahmed*(3)

(1) A. I. R. 1961 SC 1325.
(2) A. I. R. 1962 SC 660.
(3) [1977] 3 SCR 149.

A that in a taxing statute words of every day use must be construed not in their scientific or technical sense but as understood in common parlance. The question which arose in *Ramavatar's* case (supra) was whether betel leaves are vegetables and this Court held that they are not included within that term. This Court quoted with approval the
B following passage from the judgment of the High Court of Madhya Pradesh in *Madhya Pradesh Pan Merchant's Association, Santara Market, Nagpur* v. *State of Madhya Pradesh*(1) :

> In our opinion, the word "vegetables" cannot be given the comprehensive meaning the term bears in natural history and has not been given that meaning in taxing statutes be-
C fore. The term "vegetables" is to be understood as commonly understood denoting those classes of vegetable matter which are grown in kitchen gardens and are used for the table."

And observed that "the word 'vegetables' in taxing statutes is to be
D understood as in common parlance i.e. denoting class of vegetables which are grown in a kitchen garden or in a farm and are used for the table." This meaning of the word 'vegetables' was reiterated in *M/s Motipur Jamindary* case where sugarcane was held not to fall within the definition of the word 'vegetables' and the same meaning was given to the word 'vegetables' in *Washi Ahmed's case* (supra)
E where green ginger was held to be 'vegetables' within the meaning of that word as used in common parlance.

It was pointed out by this Court in *Washi Ahmed's* case (supra) that the same principle of construction in relation to words used in a taxing statute has also been adopted in English, Canadian and American Courts. Pollock B. pointed out in *Gretfell* v. *I. R. C.*(2). that "if
F a statute contains language which is capable of being construed in a popular sense, such a statute is not to be construed according to the strict or technical meaning of the language contained in it, but is to be construed in its popular sense, meaning, of course, by the words "popular sense that which people conversant with the subject-matter
G with which the statute is dealing would attribute it." So also the Supreme Court of Canada said in *Planters Nut and Chocolate Co. Ltd.* v. *The King*(3) while interpreting the words 'fruits' and 'vegetables' in the Excise Act." They are ordinary words in every day use and are, therefore, to be construed according to their popular sense". The same rule was expressed in slightly different language by Story, J.,
H in 200 *Chests of Tea*(4) where the learned Judge said that "the parti-

(1) 7 S. T. C. 99 at 102. (2) [1876] 1 Ex. D. 242 at 248.
(3) [1951] 1 D. L. R. 385. (4) [1824] 9 Wheaton (U.S.) 430 at 438.

cular words used by the Legislature in the denomination of articles are to be understood according to the common commercial understanding of the terms used, and not in their scientific or technical sense, for the Legislature does "not suppose our merchants to be naturalists, or geologists, or botanists.". " A

There can, therefore, be no doubt that the word 'textiles' in Item 30 of Schedule 'B' must be interpreted according to its popular sense, meaning "that sense which people conversant with the subject-matter with which the statute is dealing would attribute to it". There we are in complete agreement with the Judges who held in favour of the Revenue and against the assessee. But the question is : What result does the application of this test yield ? Are 'dryer felts' not 'textiles' within the ordinary accepted meaning of that word ? The word 'textiles' is derived from the Latin 'texere' which means 'to weave' and it means any woven fabric. When yarn, whether cotton, silk, woollen, rayon, nylon or of any other description or made out of any other material is woven into a fabric, what comes into being is a 'textile' and it is known as such. It may be cotton textile, silk textile, woollen textile, rayon textile, nylon textile or any other kind of textile. The method of weaving adopted may be the warp and woof pattern as is generally the case in most of the textiles, or it may be any other process or technique. There is such phenomenal advance in science and technology, so wondrous is the variety of fabrics manufactured from materials hithereto unknown or unthought of and so many are the new techniques invented for making fabric out of yarn that it would be most unwise to confine the weaving process to the warp and woof pattern. Whatever be the mode of weaving employed, woven fabric would be 'textiles'. What is necessary is no more than weaving of yarn and weaving would mean binding or putting together by some process so as to form a fabric. Moreover a textile need not be of any particular size or strength or weight. It may be in small pieces or in big rolls : it may be weak or strong, light or heavy, bleached or dyed, according to the requirement of the purchaser. The use to which it may be put is also immaterial and does not bear on its character as a textile. It may be used for making wearing apparel, or it may be used as a covering or bedsheet or it may be used as tapestry or upholstery or as duster for cleaning or as towel for drying the body. A textile may have diverse uses and it is not the use which determines its character as textile. It is, therefore, no argument against the assessee that 'dryer felts' are used only as absorbents of moisture in the process of manufacture in a paper manufacturing unit. That cannot militate against 'dryer felts' falling within the category of 'textiles', if otherwise they satisfy the description of 'textiles'. B C D E F G H

A Now, what are 'dryer felts' ? They are of two kinds, cotton dryer felts and woollen dryer felts. Both are made of yarn, cotton in one case and woollen in the other. Some synthetic yarn is also used. The process employed is that of weaving according to warp and woof pattern. This is how the manufacturing process is described by the assessing authority in its order dated 12th November, B 1971 "the raw material used by the company is cotton and woollen yarn which they themselves manufactured from raw cotton and wool and the finished products called 'felts' are manufactured on power looms from cotton and woollen yarn." 'Dryer felts' are, therefore, clearly woven fabrics and must be held to fall within the ordinary meaning of the word 'textiles'. We do not think that the word 'tex- C tiles' has any narrower meaning in common parlance other than the ordinary meaning given in the dictionary, namely, a woven fabric. There may be wide ranging varieties of woven fabric and they may go on multiplying and proliferating with new developments in science and technology and inventions of new methods, materials and techniques, but nonetheless they would all be textiles. The analogy of D cases where the word 'vegetables' was held not to include betel leaves or sugar-cane is wholly inappropriate. There, what was disapproved by the Court was resort to the botanical meaning of the word 'vegetables' when that word had acquired a popular meaning which was different. It was said by Holmes, J., in his inimitable style : "A word is not a crystal, transparent and unchanged; it is the skin of a E living thought and may vary greatly in colour and content according to the circumstances and the time in which it is used." Where a word has a scientific or technical meaning and also an ordinary meaning according to common parlance, it is in the latter sense that in a taxing statute the word must be held to have been used, unless contrary intention is clearly expressed by the Legislature. The reason F is that, as pointed out by Story, J., in 200 *Chests of Tea* (supra), the Legislature does "not suppose our merchants to be naturalists, or geologists, or botanists". But here the word 'textiles' is not sought by the assessee to be given a scientific or technical meaning in preference to its popular meaning. It has only one meaning, namely, a woven G fabric and that is the meaning which it bears in ordinary parlance. It is true that out minds are conditioned by old and antiquated notions of what are textiles and, therefore, it may sound a little strange to regard 'dryer felts' as 'textiles' : But it must be remembered that the concept of 'textiles' is not a static concept. It has, having regard to newly developing materials, methods, techniques and processes, a conti- H nually expanding content and new kinds of fabric may be invented which may legitimately, without doing any violence to the language, be regarded as 'textiles'. Take for example rayon and nylon fabrics

which have now become very popular for making wearing apparel. When they first came to be made, they must have been intruders in the field of 'textiles' because only cotton, silk and woollen fabrics were till then recognized as 'textiles'. But today no one can dispute that rayon and nylon fabrics are textiles and can properly be described as such. We may take another example which is nearer to the case before us. It is common knowledge that certain kinds of hats are made out of felt and though felt is not ordinarily used for making wearing apparel, can it be suggested that felt is not a 'textile' ? The character of a fabric or material as textile does not depend upon the use to which it may be put. The uses of textiles in a fast developing economy are manifold and it is quite common now to find 'textiles' being used even for industrial purposes. If we look at the Customs Tariff Act, 1975, we find in Chapter 59 occurring in section XI of the First Schedule that there is a reference to 'textile fabrics and textile articles, of a kind commonly used in machinery or plant' and clause (4) of that Chapter provides that this expression shall be taken to apply *inter alia* to 'woven textile felts..... of a kind commonly used in paper making or other machinery.....". This reference in a statute which is intended to apply to imports made by the trading community clearly shows that 'dryer felts' which are woven textile felts..... of a kind commonly used in paper making machinery" are regarded in common parlance, according to the sense of ordinary traders and merchants, textile fabrics. We have, therefore, no doubt that 'dryer felts' are 'textiles' within the meaning of that expression in Item 30 of Schedule 'B'.

We accordingly allow the appeal, set aside the Judgment of the High Court and answer the question referred by the Tribunal in favour of the assessee and against the Revenue. The State will pay to the assessee costs throughout.

S.R. *Appeal allowed.*