

(4) After hearing learned counsel, I find merit in the contention raised on behalf of the petitioner. Since the decree is against the company only and not against its officers, the petitioner could not be arrested in execution thereof. Consequently, the petition succeeds, and the impugned order directing issuance of warrants of arrest is set aside.

S.C.K.

Before S. S. Kang & J. S. Sekhon, JJ.

STATE OF HARYANA,—Applicant.

versus

M/S RATTAN OPTICAL WORKS, REWARI,—Respondents.

General Sales Tax Reference No. 22 of 1982.

October 19, 1989.

Punjab General Sales Tax Act, 1948 Schedule A Entry No. 23—“Glass Lenses” and “Glassware”—Meaning of—Assessee manufacturing and selling glass lenses used in Goggles—Lenses for Goggles held to be covered under “Glassware”.

Held, that we have perused the record and find that there is no evidence on the record which may be helpful in determining as to what meanings are given to expressions, “glass lenses” and “glassware” in common parlance. In the absence of such evidence we have to construe these expressions according to dictionary meaning. According to Shorter Oxford Dictionary the expression ‘glassware’ would include all articles made of glass. Since in the present case the dealer has not led any evidence and has brought no material on the record which may help us to determine as to what is understood, in the common parlance by the expression ‘glassware’ or glass lenses, he cannot claim that the lenses for goggles manufactured and sold by him are not included in entry 23 ‘glassware’ because according to dictionary meaning glass lenses for goggles are glassware.

(Para 3)

Reference made by the Sales Tax Tribunal Haryana for opinion of the following questions of law arising out of the order dated 30th October, 1979 passed by the Sales Tax Tribunal, Haryana in S.T.A. No. 318 of 1974-75.

“Whether the facts and circumstances of the case, the optical glass-lenses sold by the firm during the assessment year 1972-73 are covered by entry 23 of Schedule ‘A’ appended to the Punjab General Sales Tax Act, 1948”.

S. C. Mohunta, A.G., (Haryana), S. K. Sood, D.A. with him, for the Petitioners.

H. L. Sarin Senior Advocate, Jaishree Thakur. Advocate with him, for the Respondents.

State of Haryana v. M/s Rattan Optical Works, Rewari
(S. S. Kang, J.)

JUDGMENT

Sukhdev Singh Kang, J.

(1) M/s Rattan Optical Works, Rewari, (hereinafter referred to as 'the assessee') is engaged in the manufacture and sale of glass lenses used in goggles. During the assessment proceedings for the year 1972-73, the Assessing Authority found that the assessee had sold lenses which were made of glass and used in goggles. These lenses fell in the category of glassware incorporated in Entry No. 23 in Schedule 'A' of the Punjab General Sales Tax Act (for short 'the Act') and were exigible to sales tax at the rate of 8 per cent. The assessee had contended that what he had sold were optical lenses and not lenses for goggles and they did not fall in item No. 23 of Schedule 'A' wherein are included only luxury goods. The assessee filed an appeal. The Deputy Excise and Taxation Commissioner agreed with the conclusions of the Assessing Authority and mainly relying on *U.P. Glass Works Ltd. v. Commissioner, Sales Tax, U.P. Lucknow* (1), held that the glass lenses sold by the assessee were glassware and liable to tax at a higher rate. On second appeal by the assessee, Sales Tax Tribunal Haryana took the contrary view. He relied on a decision of the Bombay High Court in *Commissioner of Sales Tax v. Dawoodbhoy M. Tayabli* (2), and held that the expressions used in fiscal statute should be interpreted in the sense in which they are understood in the particular trade in question or in common parlance. And so construed the glass lenses are not included in the expression 'glassware'. He also relied on a decision of the Bombay High Court in *Commissioner of Sales Tax v. Tejco Industries* (3), wherein it was held that magnifying glass was not included in the entry 'glassware'. It is in this context that at the instance of the Excise and Taxation Commissioner the Sales Tax Tribunal has submitted the statement of the case and referred the following question for our opinion :—

“Whether in the facts and circumstances of the case, the optical glasslenses sold by the firm during the assessment year 1972-73 are covered by entry 23 of Schedule 'A' appended to the Punjab General Sales Tax Act, 1948”.

(1) 32 S.T.C. 252.

(2) 36 S.T.C. 291.

(3) 38 S.T.C. 93.

(2) Mr. S. K. Sood learned counsel for the State has argued that in the present case the dealer has failed to adduce any evidence which may enable us to determine as to what is the meaning given to the term 'glassware' in entry 23. There is merit in this contention. It has been observed in *Dawoodbhoy M. Tayabli's case* (*supra*), that the meaning of terms describing goods in the entries in the schedules to the State Tax Act Prescribing rates at which commercial articles have to be taxed has to be gathered from the trade parlance of the common parlance in trade. The question as to what is the meaning given to a term used in any entry in common parlance is a question of fact to be determined on evidence, and, in the absence of such evidence, the entries could be construed according to their dictionary meaning.

(3) With the help of the learned counsel for the parties we have perused the record and find that there is no evidence on the record which may be helpful in determining as to what meanings are given to expressions, "glass lenses" and "glassware" in common parlance. In the absence of such evidence we have to construe these expressions according to dictionary meaning. According to Shorter Oxford Dictionary the expression 'glassware' would include all articles made of glass. A Division Bench of Bombay High Court in *Tribuvandas Gulabchand and Brothers, Nagpur v. The State of Maharashtra* (4), had held that expression 'glassware' would comprehend all articles made of glass. In *Dawoodbhoy M. Tayabli's case* (*supra*) as is evidence from page 293 of the report, voluminous evidence had been led before the Commissioner of Sales Tax as to what is the sense in which the expression 'glassware' was understood by traders in that commodity and by persons manufacturing it. It was on the basis of that evidence that the Court concluded that glass sheets sold by the dealers were not glassware. Since in the present case the dealer has not led any evidence and has brought no material on the record which may help us to determine as to what is understood, in the common parlance by the expression 'glassware' or glass lenses, he cannot claim that the lenses for goggles manufactured and sold by him are not included in entry 23 'glassware' because according to dictionary meaning glass lenses for goggles are glassware.

(4) In the result, we answer this question in the affirmative and against the assessee.

P.C.G.