

S.M. Ram Lal & Co. vs Secretary To Government Of Punjab on 3 April, 1969

Equivalent citations: 1969(2)UJ373(SC)

JUDGMENT

Shah, J.

1. S.M. Ram Lal & Company appellants herein many on business in woolen goods They purchase wool at thier Head Office in Delhi and send it for dyeing to their factory in Faridabad Township in the District of Gurgaon. The notified Area Committee of Faridabad claimed to levy octroi on the wool imported within the limits of the Notified Area Committee and issued a demand notice in that behalf The appellants then challenged the validity of the demand notice by a petition moved under Art. 226 of the Constitution in the High Court of Punjab. The High Court rejected the petition holding that wool was brought by the appellants within the limits of the Notified Area Committee of Faridabad Township for "use" and octroi was on that account properly leviable.

2 The Notified Area Committee, Faridabad Township, is a Municipality for the purposes of the Punjab Municipal Act, 1911. Section 61 of the Punjab Municipal Act confers upon the Municipality governed by that Act power to impose taxes specified in Sub-section (1). Sub-section (2) of Section 61 provides :

"Save as provided in the forgoing clause, with the previous sanction of the State Government, any other tax which the State Legislature has power to impose in the State under the Constitution".

Entry 52 List II of the Seventh Schedule to the Constitution authorises the State Legislature to levy taxes on the entry of goods into a local area for consumption, use or sale therein By virtue of sec. 61(2) of the Punjab Municipal Act the power to levy octroi is therefore exercisable, with the previous sanction of the State Government, by the Municipalities. But octroi may be levied on the entry of goods into a local area for consumption, use or sale therein. If the entry of goods into the local area is not for consumption, use or sale within the local area, octroi cannot be levied.

3. It is common ground that the goods brought within the Notified Area Committee of Faridabad were not brought for consumption or sale. It was argued, however, that the goods were brought into the Notified Area Committee for use, and on that account octroi was leviable. The expression "use" is not defined in the Act. In its ordinary meaning the word "use" as a noun, is the act of employing a thing; putting into action or service; employing for or applying to a given purpose But the word "use" occurs in Entry 52 List II of the Seventh Schedule to the Constitution sandwiched between "consumption" and "sale", and it must take colour from the context in which it occurs. It is a settled

rule of interpretation that when two or more words which are susceptible of analogous meaning are coupled together they are understood to be used in their cognate sense. They take, as it were, their colour from each other, that is, the more general is restricted to a sense analogous to the less general: Mavwell on Interpretation of Statutes, 11th Edition, p 321. The coupling of three words "consumption", "use" and "sale connotes that the underlying common idea was that either the title of the owner is transferred to another, or the thing or commodity ceases to exist in its original form Unless it is proved that the wool brought within the limits of the Notified Area Committee, Faridabad, by the appellant was intended to be so employed that it was to become a new commodity or a component of a new commodity, no octroi would be levied by the Notified Area Committee on the entry of wool.

The High Court observed;

"The petitioner firm, admittedly, dyes this wool and then sends it back to Delhi. Undoubtedly, dyeing charges are recovered by them from the customers. Can it be said that the wool is brought for "use" when the same was only dyed and then exported? The word "Use" is very comprehensive in term. It means to put to or employ for some purpose. In other words the goods which are being imported must be put to or employed for some purpose and it is only then that it could be said that they were brought in for "use". In the present case, the wool was being imported for some specific purpose, that is for dyeing. There is thus no escape from the conclusion that it was being brought in for "use" when the "object of importing the same was dyeing. After undergoing the process of dyeing, its colour is changed and it becomes a different commodity from commercial point of view and fetches more price in the market. Under these circumstances the wool, in my opinion is being put to some purpose, that is, dyeing, when it is brought inside the Notified Area of Faridabad Township It means that the same is being imported for "use" within the meaning of this word occurring in the Octroi Schedule."

But in support of this conclusion there is no evidence. The appellant Company denied that the wool was imported for "use" within the limits of the Notified Area Committee. In the affidavits in reply on behalf of the State of Punjab and of the Notified Area Committee it was submitted that the process of dyeing involved change of form by converting one form of woollen thread to produce another finished article of different shape or packing and of higher value too. Apparently no evidence was brought on the record that the wool was imported with the object of employing it so as to convert it into a different commodity. There is no evidence to prove that as a result of merely dyeing the wool becomes a different commercial commodity The onus that octroi was leviable upon the entry of wool bought by the appellants to their Dyeing Factory lay upon the Notified Area Committee, and unless it was discharged by evidence, the High Court was not justified in assuming merely because in the process of dyeing change in the appearance of wool was involved, and as dyed wool it may fetch a higher price in the market, that it becomes a different commercial commodity. The question was one of fact and largely depends upon the intention of the person importing wool and their dealings therewith. There is no evidence on the record to support the conclusion that in importing wool within the area of the Notified Area Committee for dyeing in the factory of the appellants, it was

intended to convert it into a different commercial commodity.

4. Our attention was invited to a judgment of the Federal Court in *The Punjab Flour and General Mills Co. Ltd. Lahore v. The Chief Officer, Corporation of the City of Lahore and the Province of the Punjab* (1) where the right of the Lahore Municipality to levy a tax on the entry of wheat was raised. It was observed in that case that wheat was brought within the limits of the Lahore Municipality for grinding into flour or other products, and part of it was sold and the rest re-exported by rail to places outside the Municipal limits to purchasers or agents for sale, and that conversion of wheat by grinding into flour or other products involved an user of wheat by the tax payer. The Court observed that it could not be denied that the tax-payer used the wheat in its mills to convert i t into the flour and other products in which it did business.

5. In the present case, unless it is shown that the wool was brought within the limits of the Notified Area Committee, Faridabad Township, with the object of converting it into a different commercial commodity, it is not liable to octroi. In the High Court i does not appear to have been appreciated that the question had to be decided on evidence whether by the process of dyeing a new commodity was brought into existence. But the parties chose to argue the case merely on the pleadings. That was not a satisfactory trial of the issue which is likely to arise frequently between the parties.

6. We direct that the order of the High Court be set aside and the proceeding be remanded to the High Court to deal with and dispose it of according to law and in the light of the evidence. It will be open to the High Court to allow the parties to lead evidence on the question whether the entry of the wool belonging to the appellant into the limits of the Notified Area Committee is with the object of converting it into a different commercial commodity. Costs in this appeal will be the costs in the High Court.