

PETITIONER:
MEHRA BROS.

Vs.

RESPONDENT:
JOINT COMMERCIAL OFFICER, MADRAS

DATE OF JUDGMENT 14/11/1990

BENCH:
RANGNATHAN, S.
BENCH:
RANGNATHAN, S.
RAMASWAMY, K.

CITATION:
1991 AIR 1017 1990 SCR Supl. (3) 61
1991 SCC (1) 514 JT 1990 (4) 750
1990 SCALE (2) 1063

ACT:

Tamil Nadu General Sales Tax Act, 1959: Section 3(3) and item no. 3 Schedule I--Car Seat Covers--Whether articles adapted generally as parts and accessories of motor Vehicles.

HEADNOTE:

The appellant is a registered dealer under Tamil Nadu General Sales Tax Act 1 of 1959. The appellant has been carrying on business in the manufacture and sale of Auto seats covers, upholstery materials etc. in leather, plastic cloth and other materials. The taxable turnover for the year 1971-72 was Rs.2,61,812.74 and for 1972-73 it was Rs.1,31,650.05. The claimed car seat cover manufactured & supplied by him to the customers to be chargeable to Sales tax at 3/2 per cent. The assessing authorities levied sales Tax under section 3(3) read with Item 3 of Schedule 1st of the Tamil Nadu General Sales Tax Act at 13% and taxed accordingly. This was upheld on appeal by the Assistant Commissioner and on further revision by the Appellate Tribunal and also by the High Court. The legality thereof questioned in these appeals.

The appellant contended that car seat covers upholstery cannot be considered to be accessories to automobiles. Since such of those accessories which would be convenient for use, for the use of the motor vehicles as a whole for an effective use of the vehicles and not as a part of such vehicle are exigible to tax at 13%. Reliance was placed on the following judgments.

Supreme Motors v. State of Karnataka, [1983] 54 STC 308; Commissioner, Sales tax, U.P. v. Free India Cycle Industries, [1970] 26 STC 428 and Shadi Cycle Industries v. Commissioner of Salestax, U.P., [1971] 27 STC 56.

The respondent contended that the accessories for motor vehicles must be those that aid or an addition for convenience or use of the motor vehicle and they may also be supplementary or secondary to any one or all the parts of the motor car even without effectiveness the use of the entire motor vehicle, and reliance was placed on Khetty Traders v. State of Madras, [1973] 32 STC 346; State of Madras v. E.A.N. Meerakasim Carnatic Seat Company, [1973] 32

STC 463; S.M. Brothers v.

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Deputy Commissioner of Commercial Taxes, Hyderabad Division-I, Hyderabad & Ors., [1977] 39 STC 182 and The Commissioner of Sales Tax v. Jayesh (India) Agencies, [1984] 57 STC. 128.

Our the question: Whether car seat covers and articles adapted generally as parts and accessories of the motor vehicle.

While dismissing the appeals, the Court,

HELD: 1. The correct test would be whether the article or articles in question would be an adjunct or an accompaniment or addition for the convenient use of another part of the vehicle or adds to the beauty, elegance or comfort for the use of the motor vehicle or a supplementary or secondary to the main or primary importance. [66F]

2. Whether an article or part is an accessory cannot be decided with reference to its necessity to its effective use of the vehicle as a whole. General adaptability may be relevant but may not by itself be conclusive. [66G]

3. Another test may be whether a particular article or articles or parts, can be said to be available for sale in an automobile market or shops or places of manufacture; if the dealer says it to be available certainly such an article or part would be manufactured or kept for sale only as an accessory for the use in the motor vehicle. [66H-67A]

4. If the test that each accessory must add to the convenience or effectiveness of the use of the car as a whole is given acceptance many a part in the motor car by this process would fall outside the ambit of the accessories to the motor car. That would not appear to be the intention of the legislature. [67B]

5. The appellants in the instant case manufacture car seat covers, upholstery for sale as a automobile part in the regular course of business. Therefore, they are exigible to Sales tax at 13% under entry 3 of Schedule 1st read with section 3(3) of the Act. [67E]

JUDGMENT: