

M/S DEWAN ENTERPRISES  
v.  
COMMISSIONER OF SALES TAX, U.P.

APRIL 24, 1996

[J.S. VERMA, B.N. KIRPAL AND G.B. PATTANAIK, JJ.]

*Central Sales Tax Act, 1956 : Sections 14(iv)(xiv) and 15—Declared goods—Levy of Sales Tax—Whether cycle rim a declared good within the meaning section 14(IV)(XIV)—Held : Yes, Cycle-rim is part of wheel and thus a declared good.*

The appellant carried on the business of manufacturing and sale of cycle-rims. The assessing officer taxed it @ 8% treating the rims as cycle parts. Though the appellant contended before the Assessing officer that cycle rims were declared goods under Section 14(iv) (xiv) of the Central Sales Tax Act and according to Section 15 of the said Act, it was liable to be taxed at the rate which could not exceed 4% of the sale or purchase price thereof. The assessee's appeal to the Deputy Commissioner was allowed. The respondent then filed an appeal before the Tribunal which restored the decision of the Assessing officer. The appellant then went in revision to the High Court. The High Court held that cycle-rim was not commercially known as 'wheel' and, therefore, could be taxed under the U.P. Sales Tax Act @ 8% and it was not a declared good.

Being aggrieved, the appellant company preferred an appeal before this Court.

Allowing the appeal, this court

**HELD : 1.1.** The appellant is only entitled to be taxed @ 4% on the sale - price of the cycle-rims. According to section 15 of the Central Sales Tax Act, in respect of the declared goods which are enumerated in section 14 of the Act, the tax on their sale or purchase inside the State cannot exceed 4%. [706-G; 705-G]

**1.2.** Section 14 of the Act specifies the goods which are of special importance in inter-state trade or commerce. Sub-section (IV) enumerates, in different sub-clauses, the different types of iron and steel products which

A are declared goods. Sub-clause (XIV) specifies "wheels, tyres, axles and wheel sets". The rim of a cycle, manufactured by the appellant, is admittedly a part of a wheel. Without a rim the other parts cannot be regarded as a wheel. Moreover the entry has to be read as a whole and the meaning also assigned to the words "wheel sets" in the said entry and a rim which is admittedly a part of a wheel set would fall in the said entry. [705-G-H; 706-F]

B 1.3. Applying the test of common parlance, a rim which is admittedly round and an essential part of the wheel of the cycle would come within the said entry (XIV) and being a declared good the same cannot be taxed at the rate in excess of 4% [706-F]

C *Assistant Commercial Taxes Officer v. Ashok Tyres, (1988) 68 STC 123, approved.*

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 900-909 of 1994.

D From the Judgment and Order dated 7.1.94 of the Allahabad High Court in S.T.R. Nos. 1822-31 of 1993.

Raja Ram Agarwal, Dhruv Agarwal, Sunil Kr. Jain and J.K. Bhatia for the Appellant.

E T.N. Singh for the Respondent.

The Judgment of the Court was delivered by

F **KIRPAL, J.** The appellant carries on the business of manufacturing and sale of *rims* of cycles. The Assessing Officer, under the Uttar Pradesh Sales Tax Act, made provisional assessment treating the *rims* as cycle parts and taxed the same under the said Act @ 8%. Before the Assessing Officer, the contention of the appellant was that cycle *rims* were declared goods under clause (xiv) of sub-section (iv) of Section 14 of the Central Sales Tax Act (hereinafter referred to as 'the Act') and according to G Section 15 of the Act the tax payable under the said law in respect of any sale or purchase of declared goods inside the State could not exceed 4% of the sale or purchase price thereof and such tax shall not be levied at more than one stage. The Assessing Officer, however, made provisional assessments under the U.P. Sales Tax Act treating these *rims* as cycle parts @ 8% separately for each month from June, 1990 to March, 1991. The H appellant then filed appeals before the Deputy Commissioner (Appeals)

who accepted the appellant's contention and came to the conclusion that the *rim*s manufactured by the appellant could not be taxed at the rate higher than 4%. The respondent then filed appeal to the Tribunal which reversed the decision of the Deputy Commissioner (Appeals) and restored the decision of the Assessing Officer. A

The appellant then filed revision petitions before the Allahabad High Court. In support of its contention that the *rim* manufactured by it was a declared good, it placed reliance on a decision of a Single Judge of the Rajasthan High Court in the case of *Assistant Commercial Taxes Officer v. Ashok Tyres*, (1988) 68 STC 123 wherein it was held that the cycle *rim* came within the ambit of 'wheel' and was a declared good. The Single Judge of the Allahabad High Court from which the appeal arises, while dissenting from the aforesaid judgment of the Rajasthan High Court, came to the conclusion that a *rim* and a wheel are different things and a *rim* could become a wheel only by using spokes, hub and/or other things. The *rim* manufactured by the appellant, it was held, was not capable of revolving by itself and therefore, it could not be called a wheel. The High Court, therefore, concluded that cycle *rim* was not commercially known as 'wheel' and, therefore, could be taxed under the U.P. Sales Tax Act @ 8% and it was not a declared good. B C D

The only question which arises for consideration in these appeals is whether a cycle *rim* is a declared good or not. Sub-clause (xiv) of sub-Section (iv) of Section 14 of the Act reads as follows : E

"It is hereby declared that the following goods are of special importance in inter-State trade or commerce :

(iv) iron and steel, that is to say, - F

(xiv) wheels, tyres, axles and wheel sets". G

It is not in dispute that according to Section 15 of the Act in respect of the declared goods which are enumerated in Section 14 of the Act, the tax on their sale or purchase inside the State cannot exceed 4%. H

Section 14 of the Act, as is evident, specifies the goods which are of special importance in inter-state or commerce. Sub-section (iv) enumerates, in different sub-clauses, the different types of iron and steel products which are declared goods. Sub-clause (xiv) specifies "wheels, tyres, axles and wheel sets". The *rim* of a cycle, manufactured by the appellant, is admittedly a part of a wheel. Without a *rim* the other parts H

A cannot be regarded as a wheel. Moreover the entry has to be read as a whole and the meaning also assigned to the words "wheel sets" in the said entry and a *rim* which is admittedly a part of a wheel set would fall in the said entry.

B In *ASHOK TYRES CASE (SUPRA)*, this very entry came up for consideration before the Rajasthan High Court where the Tribunal held that the *rims* and axles fell within the ambit of entry (xiv) of clause (iv) of Section 14 of the Act. While dismissing the petition filed by the Assistant Commercial Taxes Officer, it was observed as follows :

C "So far as the 'axles' are concerned the same are expressly mentioned in the above entry (xiv). For this reason the Tribunal's decision relating to axles cannot be challenged. The question is only of the "*rims*" used in wheels of cycles and other vehicles. This being so, the Tribunal's view that *rims* are an intergral component or part of a wheel or at least a wheel set, cannot be treated as unjustified. There is no other competing entry. This being so, if

D the above *quoted* entry (xiv) is wide enough to include *rim* within its ambit, then the applicability of the residuary entry would automatically been excluded. Taking into account the ordinary meaning of "wheel" in the manner in which it is understood amongst persons dealing with the same, it is reasonable to hold that *rim* is included

E within the expression "wheel" in the above entry, particularly when there is no other competing specific entry for it. This being a plausible view to take a construction which favours the tax-payer must be preferred."

F The aforesaid reasoning of the Rajasthan High Court correctly interprets the said entry and we affirm the same. Applying the test of common parlance, a *rim* which is admittedly round and an essential part of the wheel of the cycle would come within the said entry (xiv) and being a declared good the same cannot be taxed at the rate in excess of 4%. The view taken by the Single Judge of the Allahabad High Court in the judgment under appeal gives a very narrow meaning to the said entry and cannot be upheld.

G For the aforesaid reasons, the appeal is allowed the judgment of the High Court is set-aside and it is held that appellant is only entitled to be taxed @ 4% on the sale price of the cycle *rims*. The appellant will also be entitled to costs.