

[2022 LiveLaw \(SC\) 191](#)

IN THE SUPREME COURT OF INDIA
DINESH MAHESHWARI; HRISHIKESH ROY, JJ.

Petition(s) for Special Leave to Appeal (C) No. 306/2022; 12-01-2022

THE AUTHORITY FOR CLARIFICATION AND ADVANCE RULING & ANR.

VERSUS

M/S. AAKAVI SPINNING MILLS (P) LTD.

Interpretation of Statutes - Taxation - Exemption Entry - When the exemption Entry is clear and unambiguous, no external aid for interpretation is called for, whether in the form of Budget speech or any other notification under any other enactment. (Para 11)

Tamil Nadu Value Added Tax Act, 2006 - Entry 44 of Part B of the Fourth Schedule - Hank Yarn - When the Entry in question specifically provides for exemption to the goods described as "Hank Yarn" without any ambiguity or qualification, its import cannot be restricted by describing it as being available only for the hank form of one raw material like cotton nor could it be restricted with reference to its user industry - Entry in question is clear, direct and unambiguous. (Para 11-12)

(Arising out of impugned final judgment and order dated 05-02-2020 in WA No. 947/2018 passed by the High Court of Judicature at Madras)

For Petitioner(s) Mr. K. Radhakrishnan, Sr. Adv. Dr. Joseph Aristotle S., AOR

For Respondent(s) Mr. V. Giri, Sr. Adv. Mr. Anil Kaushik, Adv. Mr. Abhishek Mishra, Adv. Ms. Shashi Sharma, Adv. Mr. Rajat Rana, Adv. Ms. Arunima Dwivedi, AOR

ORDER

1. The petitioners seek special leave to appeal against the judgment and order dated 05.02.2020, as passed by a Division Bench of the High Court of Judicature at Madras in Writ Appeal No. 947 of 2018 whereby, the Division Bench has reversed the common order dated 13.12.2017 as passed by the learned Single Judge in a batch of petitions led by Writ Petition No. 17722 of 2017; and has disapproved the impugned clarification orders dated 14.02.2013 and 29.06.2017.

1.1. By the said clarification orders, the petitioner No. 1, the Authority for Clarification and Advance Ruling, had held that the commodity "Hank Yarn", as stipulated in Entry 44 of Part B of the Fourth Schedule to the Tamil Nadu Value Added Tax Act, 2006 ('the Act'), meant only "Cotton Hank Yarn" and not "Viscose Staple Fiber ('VSF') Hank Yarn".

2. The learned Single Judge agreed with the interpretation put by the petitioner No. 1, essentially looking at the purpose for which the Entry in question was inserted into the Fourth Schedule to the Act, with reference to the Budget speech delivered by the Hon'ble Minister of Finance, Government of Tamil Nadu. The learned Single Judge also referred to the reasons assigned by the petitioner No. 1 based on the contents of a Notification dated 17.04.2003 issued by the Ministry of Textiles, Government of India in exercise of powers conferred under the Textiles (Development and Regulations) Order, 2001 and Section 3 of the Essential Commodities Act, 1955.
3. *Per contra*, the Division Bench was of the view that no external aid for interpretation was called for when the language of the Entry in question was clear in itself. The Division Bench was also of the view that even the referred Budget speech did not specifically mention that there was any intention to restrict the exemption only to "Cotton Hank Yarn".
4. We have heard the learned senior counsel for the petitioners at some length and have perused the material placed on record.
5. Having examined the matter in its totality, we find no reason to entertain this petition and to consider interference in the impugned order dated 05.02.2020, as passed by the Division Bench of the High Court.
6. Learned senior counsel for the petitioners has attempted his best to forcefully argue that the learned Single Judge has rightly taken the view in this matter with reference to the Budget speech of the Finance Minister, which made it clear that the exemption Entry 44, while describing the goods as "Hank Yarn", was meant only for the benefit of handloom industry in the textile sector; and the Entry was required to be understood and interpreted that way alone. Learned senior counsel has also referred to the said notification dated 17.04.2003 issued by the Ministry of Textiles, Government of India. Learned senior counsel has further referred to the decision of this Court in *K.P. Varghese v. Income Tax Officer*: (1981) 4 SCC 173 to submit that when literal interpretation leads to a result which was never intended by the Legislature, the Court may, rather should, depart from the plain language and modify the same so as to achieve the obvious intention of the Legislature.
7. We are unable to accept these submissions in the given set of facts concerning the present matter.
8. The Division Bench of the High Court has precisely pointed out the relevant Entries, as occurring in the First Schedule-Part B about the goods taxable at the rate of 5 per cent and juxtaposed them with the Exemption Entry, as occurring in the Fourth Schedule-Part B as follows: -

“The First Schedule – Part-B - Goods which are taxable at the rate of 5 per cent).

Sl. No.	Description of the Goods	Commodity Code Number
3	(a) All types of yarn (other than those specified in the Fourth Schedule) (b) Sewing threads of all kinds whether natural or artificial but excluding surgical sewing thread, (c) Waste of all types of yarn and sewing thread	2003

The Fourth Schedule – Part-B – Goods exempted from tax by Section 15)

44	Hank Yarn	744”
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9. Learned Single Judge had essentially relied upon the contents of the Budget speech of the Finance Minister while introducing this exemption. The Division Bench has also reproduced the same; and we may extract it again for ready reference as follows: -

"170. Hank yarn is the chief raw material for handloom goods. Keeping in mind the need to encourage handloom industries in the State and to benefit lakhs of handloom weavers, it has been decided to exempt fully the sales tax on hank yarn. This involves a loss of revenue of about Rs.56 crores per annum."

10. The Division Bench of the High Court has taken note of the reasons that prevailed with the learned Single Judge as also the extensive contentions of the parties and, thereafter, has observed, *inter alia*, as under: -

“20. We are unable to agree with the contention of the learned Special Government Pleader for the Revenue. The intention, if any, of the State could have been very well expressed in clear terms of the Entry 44 itself. Nothing prevented the State from writing Entry 44 as 'Cotton Hank Yarn' or 'Hank yarn sold to Handloom Industries'. We cannot import external aids of interpretation where the plain meaning of the terms of the statute, namely the exemption Entry, is clear itself. The external aids for interpretation can be employed only if there is any ambiguity or confusion, but such external aids of interpretation cannot be applied to create a confusion or ambiguity unnecessarily.”

10.1. As regards the import and effect of the Budget speech, the Division Bench of the High Court has again observed as under: -

“33. Thus, in the light of the said Budget Speech also, there is nothing specifically mentioned to state that there was any intention to restrict the exemption of Hank yarn only to the cotton hank yarn and not others. Cotton hank yarn as well as other types of yarn in hank form are equally entitled to exemption under Entry 44 and therefore, Handloom Industry stood encouraged by said exemption. Was there any intention of State to harm Powerloom Industry by denying exemption to other types of Yarn sold in Hank form. The answer is an

emphatic 'No'. Therefore, we re-iterate that firstly, there is no occasion to refer to the external aids like Finance Minister Speech in the present case, in view of the plain language in Entry 44 and even if one were to do so, there is no occasion to make an inference from the said Budget Speech that only cotton Hank yarn was entitled to be exempted. Cotton Hank yarn continues to be exempt in Entry 44 and so also VSF and PFA Hank yarn will be entitled to such exemption. The Court cannot supply or insert the words in the Entries in the statute, as is sought to be canvassed by the Revenue before us.

34. Merely because Cotton hank yarn is the chief raw material for Handloom Industry or merely because powerloom industry can have an overarch over the Handloom Industry in the textile sector, we cannot deny the exemption to the supply of raw material namely VSF and PF Hank yarn to powerloom industry in the face of the plain language of the plain words 'Hank Yarn' employed in Entry 44 of the Fourth Schedule to the Act.”

11. As noticed, the Entry in question, as inserted into the Fourth Schedule to the Act, is clear and specific that is, “Hank Yarn”; it carries neither any ambiguity nor any confusion. Undoubtably, the yarn in the hank form (which is a unit of measure), has come for exemption under the said Entry 44; and obviously, that exemption enures to the benefit of the handloom industry too. However, for that matter, if the benefit of this broad and unambiguous entry also goes to any other industry, there is absolutely no reason to deny such benefit. In other words, we find no reason to restrict the Entry in its operation to the handloom industry alone or to any particular class of hank yarn like “Cotton Hank Yarn” only. The exemption Entry being clear and unambiguous, no external aid for interpretation is called for, whether in the form of Budget speech or any other notification under any other enactment.

12. When the Entry in question specifically provides for exemption to the goods described as “Hank Yarn” without any ambiguity or qualification, its import cannot be restricted by describing it as being available only for the hank form of one raw material like cotton nor could it be restricted with reference to its user industry. That being the position, reference to the decision in *K.P. Varghese* (supra) remains entirely inapposite to the facts of the present case. Therein, this Court was dealing with the interpretation of the language of sub-section (2) of Section 52 of the Income Tax Act, 1961 and it was found that a literal interpretation might not cover several eventualities concerning the value of consideration declared by the assessee in respect of the transfer of a capital asset vis-a-vis its fair market value as on the date of its transfer. Thus, this Court found, with reference to the intent and purpose, that the said provision could only be invoked when the consideration for transfer had not been correctly declared by the assessee, with burden of proving such understatement or concealment being on the Revenue. The observations in the said decision, based on the rules of interpretation to cull out meaning of a sentence (*vide* paragraph 5 thereof), do not apply to the question at hand because the Entry in question is clear, direct and unambiguous; and simply reads: “Hank Yarn”.

13. Thus, the view as taken by the High Court commends to us and we find no question of law worth consideration so as to entertain this petition. Therefore, the special leave petition stands dismissed.

14. Pending applications also stand disposed of.

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