



IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

WRIT PETITION No. 14268 of 2010

M/S PIDILITE INDUSTRIES LTD

Versus

*THE COMMISSIONER OF COMMERCIAL TAX AND 2 ORS. AND
OTHERS*

Appearance:

Shri P. M. Choudhay, learned Senior Counsel assisted by Shri Anand Prabhawalkar, learned counsel for the petitioner.

Shri Sudeep Bhargava, learned Deputy Advocate General for the respondents / State.

Reserved on : 06st August, 2025

Delivered on : 26th August, 2025

O R D E R

Per : Justice Vivek Rusia

The present writ petition has been filed by the petitioner under Article 226 of the Constitution of India assailing the legality, validity and propriety of the order dated 31.08.2010 passed by the Commissioner of Commercial Tax, Madhya Pradesh, Indore whereby the petitioners product "Steel Grip Insulating Tape" has been classified under the residuary entry in Entry No.1 of Part IV of Schedule II of the Madhya Pradesh Value Added Tax Act, 2002 (herein after referred as "the MP VAT Act") attracting a higher rate of tax and has also challenged the consequential assessment notices issued thereafter by the respondent authorities for recovery of



differential tax.

FACTS OF THE CASE IN BRIEF

02. The petitioner is a public limited company incorporated under the provisions of the Companies Act, 1956 engaged in the business of manufacture and sale of a variety of consumer products and speciality chemicals. It operates multiple manufacturing units in the States of Maharashtra, Gujarat, Daman and Himachal Pradesh.

2.1. For the purposes of sales within the State of Madhya Pradesh, the petitioner has been maintaining a sale depot at Indore since 1992 and is also registered under the under the M.P. VAT Act. The goods manufactured in the petitioner's factories outside the State are dispatched to this depot, from where sales are made within Madhya Pradesh.

2.2. The petitioner was facing difficulty in classification of its product Steel Grip Insulating Tape, hence, moved an application dated 06.03.2010 under Section 70 of the M.P. VAT Act before the Commissioner of Commercial Tax, M.P. seeking determination of the correct rate of tax applicable by contending that the product is an "insulator" covered by Entry No. 50 of Part – II of Schedule – II of the M.P. VAT Act and attracts tax at the rate of 4% till 31.07.2009 and 5% from 01.08.2009.

2.3. In support of its contention, the petitioner submitted physical sample of the product; flow chart of its manufacturing process and technical data sheet; various VAT entries from other states classifying similar products as "insulators" and further relied on the decision of the CEGAT in *Chetana Polycoat Pvt. Ltd. v/s Collector of Central Excise reported in 1988 (37) ELT 253*.



2.4. By order dated 31.08.2010 passed in Case No.4/10/70/XI, the Commissioner of Commercial Tax relying on Circular No. CT/VAT CEL/2004/292 dated 31.07.2006, which clarified that Steel Grip Insulating Tape is taxable under the residuary entry in Part – IV of Schedule – II at the rate of 12.5%, applying the principle that goods are to be classified according to their meaning in common parlance rather than their technical composition.

2.5. The Commissioner in the order observed that the product in question is ordinarily traded as an electrical item sold by dealers dealing in electrical goods and extensively used in electrical works and thus on this basis held that the insulating tape falls within the description of "electrical goods" in common parlance and is, therefore, classifiable under the residuary Entry No.1 of Part – IV of Schedule – II of the M.P. VAT Act attracting tax at the rate of 13%.

2.6. Based on the said determination, the Assessing Authorities initiated proceedings for recovery of the differential tax liability and issued Notice No. 428 dated 15.11.2010 and Notices Nos. 7832 and 7833 dated 22.11.2010 for the period 1.04.2010 to 30.09.2010, thereby commencing the process of reassessment and recovery in accordance with the provisions of the M.P. VAT Act.

2.7. Aggrieved by the action of the respondent authorities, the petitioner has approached this Court seeking quashment of the impugned order dated 31.08.2010 and all consequential notices, a direction to levy tax on the product at the rate applicable to "insulators" under Entry 50, Part – II, Schedule – II of the M.P. VAT Act, 2002, and to restrain the respondents from imposing a higher rate under the residuary entry or proceeding with assessment for any



period before 31.08.2010.

SUBMISSIONS OF PETITIONER

03. Shri P.M. Choudhary, Learned Senior Counsel appearing for the petitioner submitted that the impugned determination order is unsustainable as it is based on an erroneous understanding of the nature and use of the commodity in question i.e. Steel Grip Insulating Tape. The product is solely designed and used as an insulator to prevent the flow of electrical current and to protect against electric shock, and thus ought to have been classified under the specific entry applicable to "insulators" carrying a lower rate of tax rather than under the residuary entry attracting a higher rate.

04. Learned Senior Counsel submitted that the learned Commissioner had failed to appreciate the functional character of the product, which is well recognized by consumers and traders alike, and instead relied merely on the fact that it is sold by dealers in electrical goods or used by electricians. In the present case though the product was sold by the dealers and used by electricians as electric goods, but the dealers had sold it for use as insulators only and electricians also used it as insulators only thus the learned Commissioner should have classified on the basis of this inherent properties and purpose of the product and not the trade channel through which it was being sold.

05. Learned Senior Counsel further submitted that the determination under Section 70 of the MP VAT Act is binding and requires the commissioner to examine the nature, characteristics, marketability and use of the commodity however, no such examination has been done in the present case and instead the



commissioner has placed mechanical reliance upon a circular No. 292 dated 31.07.2006 without independent application of mind.

06. Learned Senior Counsel also submitted that Entry No. 50 of Part – II of Schedule – II is a specific entry covering all commodities having insulating properties or capable of being used as insulators, and in the absence of any definition in the statute, the classification must be guided by the specific entry which most accurately and directly covers the commodity. It is settled law that where a specific entry exists, recourse to a general or residuary entry is impermissible and in cases of possible overlap between a specific and a general entry, the specific entry must prevail, and in the event of ambiguity, the interpretation favourable to the taxpayer is to be adopted.

07. Learned Senior Counsel submitted that the consequential notices issued under Section 18(5) of the MP VAT Act are without jurisdiction and premature, as this provision can be invoked only when the returns filed by the dealer are found to contain incorrect particulars after verification. The returns filed by the petitioner were prepared in good faith on a genuine belief that the product is taxable as an insulator, which was the view consistently accepted in earlier assessments and that the returns cannot be treated as incorrect until the classification matter attains finality.

08. Learned Senior Counsel submitted that any determination under Section 70 of the MP VAT Act operates prospectively and cannot be applied to past periods to justify retrospective demands and prayed that the impugned order and notices be quashed and the correct classification of the product under the entry of insulator be made.



09. In support of the above submissions learned Senior Counsel placed reliance on various judgments of the Apex Court in ***Chetna Polycoats (P) Ltd. v/s CCE reported in [1988] 37 E.L.T. 253 (Tribunal)***, ***Atul Glass Industries Pvt. Ltd. v/s CCE reported in [1986] 63 STC 322 (SC)***, ***Delhi Cloth & General Mills Co. Ltd. v/s State of Rajasthan reported in [1980] 46 STC 256 (SC)***, ***Indo International Industries v/s CST reported in [1981] 2 SCC 528*** and ***Mauri Yeast India Pvt. Ltd. v/s State of U.P. reported in [2008] 14 VST 259 (SC)***. Reliance has further been placed on the judgments of various High Courts in ***Castrol India Ltd. v/s CCT reported in [2018] 51 GSTR 40 (MP)***, ***Mega Enterprises v/s State of M.P. reported in [2012] 53 VST 422 (MP)***, ***Ruchi Soya Industries Ltd. v/s State of M.P. reported in [2025] 140 GSTR 520 (MP)***, ***Excise & Taxation Officer v/s T.R. Solvent Oil Pvt. Ltd. reported in [2011] 39 VST 387 (P&H)*** and ***Lazarus Alosious v/s State of Kerala reported in [2006] 144 STC 210 (FB) (Ker)***.

10. Learned Senior Counsel has also relied upon various determinations of different authorities which have held products of similar description to be classifiable as "insulators" rather than under any residuary or general entry in following cases the Advance Ruling by Karnataka AAR reported in [2019] SCC Online Kar AAR -GST 61; and DDQ orders passed by the Commissioners of Assam and Delhi in the cases of M/s Anchor Electricals Pvt. Ltd; by the Commissioner of Delhi in the case of M/s Gupta Plastic Works; by the Commissioner of Karnataka in the case of M/s Alankar Electricals and by the Commissioner at Chennai in the case of M/s Tvl. Everest Enterprises.

SUBMISSIONS OF RESPONDENT / STATE



11. Shri Sudeep Bhargava, learned Deputy Advocate General, appearing on behalf of the respondents, submitted that the present writ petition is misconceived and liable to be dismissed as the impugned classification order passed by the Commissioner is legal, proper and in accordance with the provisions of the M.P. VAT Act, 2002. Learned Deputy Advocate General submitted that the central issue in the present matter is whether the product "Steel Grip Insulating Tape" is liable to be taxed as an "insulator" under Entry 50 of Part – II of Schedule – II, as being relied upon by the petitioner.

12. Learned Deputy Advocate General submitted that the reliance placed by the petitioner on judgment rendered in the context of the Central Excise Act, such as Chetana Industries Ltd. v. Collector of Central Excise, is totally misplaced as the legal and conceptual framework of the levy of tax under Central Excise is fundamentally different from that of VAT. Central Excise is a levy on the manufacture or production of goods and is guided by HSN classifications, while VAT is a levy on the point of sale.

13. Learned Deputy Advocate General submitted that Entry No. 50 of Part – II of Schedule – II relates specifically and exclusively to "insulators" and not to insulating materials generally. In commercial parlance, insulators are distinct goods sold by specialized dealers, whereas insulating materials, including electrical tapes, are commonly sold by general electrical goods dealers.

14. Learned Deputy Advocate General submitted that for the purpose of classification under taxing statutes such as the VAT Act, the test of common parlance must prevail over technical definitions and the classification must be determined by their popular or commercial



understanding rather than any scientific or technical meaning. In the present case, the product is a material used in electrical works and is commonly understood and sold as such and is not interchangeable with electrical insulators, which are a distinct commodity.

15. Learned Deputy Advocate General submitted definitions from sources such as Wikipedia and legal lexicons, also indicating that while insulators refer to devices or articles which prevent the passage of electric current, tapes merely serve as accessories or covering material and do not fall within the primary meaning of an "insulator". Learned Deputy A.G. thus submitted that the Commissioner of Commercial Tax has rightly classified the product under the residuary entry in Part – IV of Schedule – II taxable @ 12.5% or 13% and prayed for dismissal of the petition.

16. In support of the above submissions Learned Deputy Advocate General placed reliance on several judgments of the Apex Court and various High Courts in the cases of *Commissioner of Trade Tax, U.P. v/s S/S Parikh Gramodyog Sansthan in Civil Appeal No. 651/2005*, *Ministry of Finance v/s W.S. Insulators of India reported in 1983 ELT 2184 (Mad)*, *Indo International Industries v/s CST reported in [1981] 2 SCC 528*, *Ramavatar Bhudhaiprasad v/s Assistant Sales Tax Officer, Akola reported in (1961) 1 SCR 1325* and *Commissioner of Sales Tax, M.P. v/s Jaswant Singh Charan Singh reported in (1967) 2 SCR 720*.

APPRECIATION & CONCLUSION

17. Insulation tape is both an insulator and an adhesive tape. Its primary purpose is to insulate electrical wires and other conductive materials to prevent electrical current from escaping. While it functions as a regular adhesive tape by sticking to surfaces, its key



characteristic is its non-conductive material, which sets it apart from simple adhesive tapes like Scotch tape or duct tape.

Key Properties & Composition

18. Insulation tape is specifically engineered for electrical safety. It's typically made from materials with very low electrical conductivity, most commonly Polyvinyl Chloride (PVC). The PVC backing provides excellent dielectric strength, which is its ability to resist the flow of electricity, and makes it flexible and conformable to wrap tightly around wires and connections.

19. The adhesive on the tape is also formulated to be non-corrosive and to maintain a strong hold over time, even in various environmental conditions like moisture and temperature changes.

How It's Different from Other Tapes

20. While most adhesive tapes have some degree of insulating properties, they are not designed or tested for electrical applications. Using a simple adhesive tape on an electrical wire can be a serious fire and shock hazard because:

- * **Low Dielectric Strength:** They don't have the same level of electrical resistance as proper insulation tape.

- * **Flammability:** Many common tapes, like duct tape, have cloth or other flammable components that can easily catch fire under high voltage.

- * **Durability:** They can degrade quickly, losing their adhesive properties and exposing the wire.

21. Insulation tape, on the other hand, is built to be flame-retardant and resistant to environmental factors, ensuring a safe and long-lasting repair or insulation. Electricians use different colors of



insulation tape to indicate the wire's voltage level or phase, which is another function simple adhesive tapes can't provide.

19. Admittedly, the main purpose of insulating tape is to insulate electrical wires to prevent electric current from escaping. If no adhesive is applied to one side of the tape, it would be very difficult to insulate the open wire in order to prevent the shock. The main purpose of the insulating tape is for safety. Ordinary adhesive tape may not have the level of electrical resistance which is provided in the insulation tape. The adhesive is applied only to give a grip to an insulating tape, therefore, it cannot be said that insulating tape is an ordinary tape or used for stationery or artwork purposes.

20. Learned Deputy Advocate General argued that as per Entry 50 Part – II Schedule – II of the M.P. VAT Act, the insulator is taxable @ 5% which will not include insulating material. The insulators are sold by the specific category of dealers while the insulating material, which includes the insulating tape is sold by most of the dealers selling the electrical goods, hence, they are liable to be taxed as per Entry – 1, Part – IV, Schedule – II @ 12.5%.

21. As per the definition, an insulator is a material that resists the flow of electric charge. These materials are used in electrical equipment as an insulator. Its function is to support or separate electrical conductors without allowing current through themselves. Some materials, such as glass, paper or Teflon are very good electrical conductors. Rubber-like polymers and most plastics can serve as a safe insulator for low to moderate voltages.

22. Insulators are commonly used as a flexible coating on electric wire and cable. The wires which touch each other will produce cross



connections, short circuits and fire hazards. Any wires which present voltages higher than 60V can cause human shock and electrocution hazards, which is why insulating coatings help to prevent all of these problems. When two electric wires are connected by removing the plastic coating, the electricians apply the insulating tape to cover the open part of the wire in order to prevent shock or loss of electricity, which is why they are called electrical tape or insulator tape. The varieties of electrical tapes in different colours are available. The electricians generally use black tape for insulation purposes and other colours of tape are used to indicate the voltage level and phase of the wire. The insulating tape has no other use except to insulate the open wires.

23. According to the Apex Court, it is generally by its functional character that a product is so identified. It is a matter of common experience that the identity of an article is associated with its primary function. Since Entry 50, Part – II Schedule – II of the M.P. VAT Act is a specific entry for classification and levy of tax on an insulator, in view of the settled legal position that if there is a specific entry, in which commodity falls, then the classification under the general or residual entry should be avoided. Even if the commodity in question falls in both entries, then the entry beneficial or favourable to the assessee should be applied.

24. In view of the above, the impugned order dated 31.08.2010 (Annexure-P/1) passed by the Commissioner of Commercial Tax, Madhya Pradesh, Indore, whereby the steel grip insulating tape has been classified in the residual entry (in Entry No.1, Part – IV Schedule – II of M.P. VAT Act) is hereby set aside. The steel grip



insulating tape manufactured by the petitioner is an insulator and liable to be taxed under Entry 50 Part – II Schedule – II of the M.P. VAT Act @ 5%.

25. With the aforesaid, Writ Petition stands allowed. No order as to costs.

(VIVEK RUSIA)
J U D G E

(BINOD KUMAR DWIVEDI)
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Ravi