ITEM NO.35   COURT NO.7   SECTION IV-C

S U P R E M E   C O U R T   O F   I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No.68969/2025

[Arising out of impugned final judgment and order dated 12-08-2025 in VATA No. 26/2022 12-08-2025 in VATA No. 27/2022 passed by the High Court of Madhya Pradesh at Indore]

M/S SEALWELL INDUSTRIES THROUGH PARTNER
MR ABHIMANYU CHORDIA   Petitioner(s)

VERSUS

COMMISSIONER, COMMERCIAL TAX   Respondent(s)

(IA No. 323584/2025 - CONDONATION OF DELAY IN FILING, IA No. 323585/2025 - EXEMPTION FROM FILING O.T.)

WITH
Diary No.68284/2025 (IV-C)

(IA No. 326176/2025 - CONDONATION OF DELAY IN FILING,IA No. 326177/2025 - EXEMPTION FROM FILING O.T., IA No. 326175/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 16-01-2026 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s) : Mr. Kanu Agrawal , AOR

For Respondent(s) :

UPON hearing the counsel the Court made the following

O R D E R

1. Delay condoned.

2. Issue notice returnable in four weeks.

Signature Not Verified
Digitally signed by CHANDRESH
Date: 2026.01.16 18:24:06 IST
Reason:

(CHANDRESH)   (POOJA SHARMA)
ASTT. REGISTRAR-cum-PS   COURT MASTER (NSH)

IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

ON THE 12th OF AUGUST, 2025

VALUE ADDED TAX APPEAL No. 25 of 2022

M/S BLUE CHIP FELT THROUGH THE PROPRIETOR, MR. ASHOK CHORDIA

Versus

COMMERCIAL TAX

WITH

VALUE ADDED TAX APPEAL No. 24 of 2022

M/S BLUE CHIP FELT THROUGH PROPRITOR MR. ASHOK CHORDIA

Versus

COMMERCIAL TAX

VALUE ADDED TAX APPEAL No. 26 of 2022

M/S SEALWELL INDUSTRIES THROUGH PARTNER MR. ABHIMANYU CHORDIA

Versus

COMMERCIAL TAX

VALUE ADDED TAX APPEAL No. 27 of 2022

M/S SEALWELL THROUGH PARTNER MR. ABHIMANYU CHORDIA

Versus

COMMERCIAL TAX

Appearance:

Shri Aditya Goyal - Advocate for the appellants.
Shri Bhuwan Gautam – Government Advocate for the respondents/State.

Reserved on: 21.07.2025
Pronounced on: 12.08.2025

JUDGMENT

Per: Justice Vivek Rusia

Regard being had to the similarity of controversy involved in the aforementioned appeals, they are being heard analogously and disposed of by this common order.

2. This bunch of VAT Appeals have been filed by the appellants being aggrieved by the orders dated 29.12.2021 passed by the M.P. Commercial Tax Appellate Board, Bhopal, Bench at Indore in the respective cases as mentioned below:

VATA No. 25/2022	Case No. A/109/CTAB/IND/17 Case No. A/111/CTAB/IND/17 Case No. A/274/CTAB/IND/16 Case No. A/110/CTAB/IND/17
VATA No. 24/2022	Case No. A/107/CTAB/IND/17 (VAT) Case No. A/273/CTAB/IND/16 (VAT) Case No. A/108/CTAB/IND/17 (VAT)
VATA No. 26/2022	Case No. A/114/CTAB/IND/17 Case No. A/275/CTAB/IND/16 Case No. A/115/CTAB/IND/17
VATA No. 27/2022	Case No. A/112/CTAB/IND/17 (VAT) Case No. A/276/CTAB/IND/16 (VAT) Case No. A/113/CTAB/IND/17 (VAT)

3. Vide impugned orders dated 29.12.2021, the appeals preferred by the appellants against the first appellate orders in respect of various financial years w.e.f. 01.04.2008 to 31.03.2014 have been dismissed, and the orders passed by the Assessment Officer have been upheld.

For the sake of convenience, the facts of VATA No. 25 of 2022 are being taken, which are as under :

4. The appellant is a partnership firm engaged in the manufacturing of Felt Components. The appellant manufactures ***Felt*** of various shapes and sizes according to the demand of the industries. This ***Felt*** is exclusively supplied and used in manufacturing plants as one of the components of the machine.

5. A dispute arose in respect of the classification of the ***Felt*** under the MP VAT Act, 2000 (hereinafter referred to as the 'VAT Act'). According to the petitioner, the '***Felt***' is a textile structure composed entirely of fibres physically interlocked by mechanical work. Hence, the same is liable to be classified as a 'Fabric' under Entry No. 48 of Schedule I and from 01.08.2019 to 31.03.2012 under Entry No. 34 of Schedule II Part II of the VAT Act and taxed at the rate of 4% - 5%. On the contrary, according to the respondent, ***Felt*** is a 'Machinery Part' falling under Schedule-II Part IV Entry 1 and liable to be taxed at the rate of 12.5% - 13%.

6. With respect to the assessment year 2008-09 and 2009-10, the appellant was assessed and levied VAT at the rate of 4% on the sale of Woollen Felt Component, treating it to be Fabric. Thereafter, the assessment was reopened on the basis of an audit objection and VAT at the rate of 13% was levied, treating it as Machinery Part. Accordingly, for the subsequent years 2012-13 and 2013-14, the appellant has been assessed and directed to pay the VAT at the rate of 13%. Appellant preferred an appeal before the appellate authority, but the same was

dismissed. Thereafter, the appellant approached the M.P. Commercial Tax Appellate Board and vide impugned order dated 29.12.2021, all the appeals were dismissed. Hence, this appeal is before this Court.

7. The learned counsel of appellant has proposed the following substantial question of law in these appeals :

(1) Whether the impugned order was wrong to classify ‘Felt Component’ under the residuary entry when it should have fallen under Entry 34 of Schedule II Part II dealing with ‘Fabrics’?

(2) Whether the courts below while passing the Impugned Order has failed to appreciate that true nature and essential characteristics of ‘Felt Component’ while determining its classification under the MP VAT Act?

(3) Whether the Impugned Order is erroneous as being guided merely on the basis of nomenclature of the product (Woollen Felt Component) while determining its classification under the MP VAT Act?

(4) Whether the Impugned Order is erroneous for relying upon orders passed under the previous tax regimes to determine the classification under of Woollen Felt Component under the MP VAT Act?

(5) Whether the courts below, while passing the Appellate Order and Impugned Order, have failed to appreciate that an assessment cannot be reopened merely on the basis of an audit report and a change of opinion?

(6) Whether the Impugned Order wrong to classify 'Felt Component' Schedule II Part II, dealing with 'Fabrics'?

<u>Submissions of the counsel for the appellants</u>

8. Shri Aditya Goyal, learned counsel appearing on behalf of the appellant submitted that the Appellate Board has wrongly treated the Woolen Felt Component as machinery part contrary to the settled law that for the purpose of

taxation what is to be considered is the inherent and essential characteristics of the goods and not the nomenclature given to it by the recipient. The Apex Court in the case of ***Porritts & Spencer (Asia) Ltd. Vs. State of Haryana, (1979) 1 SCC 82*** has held that 'dryer felts' used in the paper industry cannot be held to be a machine part where it comes under the category of 'textiles'. It is observed that the use of textiles in a fast-developing economy is manifold, and it is quite common to find 'textiles' being used even for industrial purposes. Shri Goyal learned counsel submits that by applying the same logic, the word ***Felt*** can be referred to as 'fabric' and not a machinery part. Hence, the orders passed by the subordinate taxing authorities are contrary to the decision of the Apex Court in the case of ***Porritts & Spencer (supra)***.

9. It is further submitted that since there is no specific entry for ***Woollen Felt Component***, it would not fall under the Schedule II Part IV Entry 1, i.e. Residuary Entry under the VAT Act. However, the Residuary Entry can be applied when, even by literal construction, the specific entry cannot cover the goods in question. In the present case, as argued above, the Woollen Felt is treated as a textile; therefore, the word fabric, which is provided in the Schedule II Part II Entry 34, can be taken into consideration for taxation purposes. In support of this contention, Shri Goyal learned counsel has placed reliance on the judgment passed by the Apex Court in case of ***Mauri Yeast India Private Limited vs. State of Uttar Pradesh & Anr., (2008) 5 SCC 680*** wherein the Apex

Court held that, if there is a conflict between two entries one leading to an opinion that it comes within the purview of the tariff entry and another the residuary entry, the former should be preferred.

10. Shri Goyal, learned counsel, has also referred to various dictionaries in which the word ***Felt*** is defined as a thick cloth made from wool, hair or other fabrics packed tightly together.

Submissions of the counsel for the respondent

11. Shri Bhuwan Gautam, learned Government Advocate appearing for the respondent/State, submits that the learned Appellate Board, upon applying the common parlance / popular test, has passed the well reasoned order denying to classify 'Woolen Felt Component' as fabric under Schedule II Part II Entry 34 when it is essentially used as a machinery part. The Appellate Board has appreciated the earlier orders passed under Section 42-B of the M.P.General Sales Tax Act, 1958 and Section 70 of the M.P. Value Added Tax Act, 2002 and maintained the consistent view that the Woollen Felt Component is a machinery part and not a fabric.

12. Shri Gautam, learned Government Advocate has placed reliance on a judgment passed by the Apex Court in case of ***Westinghouse Saxby Farmer Ltd. vs. Commissioner of Central Excise Calcutta, (2021) 5 SCC 586*** wherein it has been held that the common parlance test of commercial usage test are the most appropriate tests for classification of a product in a taxing statute. Hence, no

interference is liable to be made as no question of law is involved in the case, and the appeals deserve to be dismissed.

Appreciation and Conclusion

13. It is not in dispute that the appellants are manufacturing 'Felt' for supply to the industries as per their requirement. The appellant has not disputed the fact that the manufactured Woollen Felt Component is not being used as a machinery part. The appellants' claim is totally based on the definition of the word 'Felt' according to which it is a thick cloth made from wool, hair or other fabric. Appellant is strongly placing reliance on Entry 48 of Schedule I, which is a Fabric, i.e. towel, gamchha, chadar, quilt, cover, bed cover, handkerchief and unbranded pillow covers. Entry 34 of Schedule II Part II says that Fabric other than that specified in Schedule I, which is declared goods. Admittedly, the 'Felt' cannot be used as a fabric for which the fabrics specified under Entry No. 48 of Schedule I are used, i.e. for manufacturing of towels, gamchha, chadar, quilt, cover, bed cover, handkerchief and unbranded pillow covers, etc. The appellant has not given any example to show that the 'Woollen Felt Component' is being used as a fabric or dress material. Though it is named as ***Felt***, it is in fact used mainly as a conveyor belt in the paper industry.

14. So far as the applicability of judgment passed by the Apex Court in case of ***Porritts & Spencer (supra)*** in the present case is concerned, the Apex Court has considered Item No. 30 of Schedule 'B' of the Punjab General Sales Tax Act,

1948 which relates to all varieties of cotton, woolen or silken textiles including rayon, artificial silk or nylon whether manufactured by handloom or powerloom or otherwise, but not including pure silk fabrics, carpets, etc. The question was whether the 'dryer felt' manufactured by the assessee fell within the category of goods to be exempted from sales tax by treating it as a textile, as provided in Item 30 of Schedule B of the Punjab General Sales Tax Act, 1948. In the aforesaid Schedule, there is a consideration of all variants of cotton and woollen manufactured by handloom, power loom or otherwise, hence treated as textile. But in the M.P. VAT Act, 2002, Entry 48 of Schedule I is in respect of the Fabric, i.e. towel, gamchha, chadar, quilt cover, bed cover, handkerchief and unbranded pillow cover, etc. Therefore, this Entry is by name of product and not generalised as in the case of Item No. 30 of Punjab General Sales Tax Act, 1948, which covers all varieties of cotton, silk and woollen manufactured by handloom, powerloom or otherwise. However, in Entry 48 of Schedule I, there is no such word as 'all variant', 'manufactured by handloom, powerloom or otherwise'. Hence, the judgment passed in the case of ***Porritts & Spencer (supra)*** will not apply in the case of the present appellants.

15. In view of the discussion in the foregoing paragraphs, we do not find any question of law in these appeals to interfere with the impugned orders dated 29.12.2021 passed by the MP Commercial Tax Appellate Board. Accordingly, the appeals deserve to be and are hereby dismissed.

A copy of this order be placed in the record of connected VATA Nos. 24 of 2022, 26 of 2022 and 27 of 2022.

(VIVEK RUSIA)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE

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