(1974) 12 AHC CK 0002

In the Allahabad High Court

Case No : Sales Tax Reference No. 117 of 1973

Basant Industries APPELLANT

Vs

Commissioner of Sales Tax RESPONDENT

Date of Decision : 06-12-1974

Acts Referred:

Uttar Pradesh Sales Tax (Amendment) Act, 1974 — Section 9

Citation : (1975) 36 STC 209

Hon'ble Judges : Satish Chandra, J;Gopi Nath, J

Bench : Division Bench

Advocate : Ashok Gupta, for the Appellant; Standing Counsel, for the Respondent

Judgement

Satish Chandra, J.—The question which requires consideration in this reference is whether the pumping sets are agricultural implements liable to tax at 2 per cent under the notification dated 1st September, 1965. A Full Bench in Engineering Traders v. State of U.P. 1073 U.P.T.C. 91 held that pumping sets were agricultural implements and liable to pay tax at 2 per cent and they were not machineries taxable at 6 per cent. Subsequently, the State Legislature by Section 9 of the U. P. Sales Tax (Amendment) Act, 1974 (Act No. 17 of 1974), retrospectively amended entry No. 52 to the First Schedule of the U.P. Sales Tax Act. Previously this entry read :

52. Machinery and spare parts of machinery, not being such machinery or spare parts thereof as are taxable under any other item in this schedule.

2. After amendment entry No. 52 reads :

Machinery and spare parts of machinery, including water pumps, not being such machinery or spare parts thereof as are taxable under any other item in this schedule.

3. The amendment made by Section 9 of this Act is as if the amended entry will always be in operation in substitution of the original entry. The amended entry

hence governs the present case which is for the turnover of the assessment years 1965-66 and 1966-67. In view of the amended entry it cannot be doubted that the water pumping sets in which the assessee deals were liable to tax at 6 per cent.

4. In this view, our answer to the question referred to us is that the turnover of the pumping sets in question was liable to tax at 6 per cent. We, however, make no order as to costs.

