(1974) 09 AHC CK 0006

In the Allahabad High Court

Case No : Sales Tax Reference No. 762 of 1972

Commissioner of Sales Tax APPELLANT

Vs

Import Association RESPONDENT

Date of Decision : 20-09-1974

Acts Referred:

Uttar Pradesh Sales Tax Act, 1948 — Section 3

Citation : (1975) 35 STC 491

Hon'ble Judges : Satish Chandra, J;K.N. Seth, J

Bench : Division Bench

Advocate : R.R. Agarwal, for the Respondent

Judgement

Satish Chandra, J.—The question of law raised by this reference is "whether ammeter and voltmeter are electrical goods within the meaning of Notification No. ST-7096/X-1012-1965 dated 1st October, 1965". The relevant entry in this regard is at serial No. 7 of the above notification. It reads :

Electrical goods other than equipment, plants and their accessories required for generation, distribution and transmission of electrical energy.

2. The Judge (Revisions) held that ammeters and voltmeters were not worked by electrical energy. Each was a mere apparatus for measuring different aspects of current. They should be unclassified items attracting tax at all points of sale u/s 3 of the U. P. Sales Tax Act.

3. Ammeters and voltmeters are apparatus utilised for measuring the quantum of current. They cannot be worked unless electrical energy is made to pass through them. It is not the case of either party that they could be worked by any other source of energy. The Judge (Revisions) was, in our opinion, not justified in saying that these instruments are not worked by electrical energy. The nature of the functions performed by these instruments is not generation, distribution or transmission of electrical energy, but they can perform their function only when electrical energy is made to pass through them. Clearly, they are worked by

electrical energy. In Commissioner of Sales Tax, U.P., Lucknow v. B. C.M. Franklin and Company 1972 U.P.T.C. 716 the question was whether welding electrodes were electrical goods. It was found that electrodes are made out of steel core wire, which is coated with a chemical paste called flux. On being heated the rod melts, and the molten material is used to fill up the gap between two joints which are sought to be welded. It was held that the welding electrodes are not electrical equipments as they do not perform any of the functions as required for generation, distribution and transmission of electrical energy under the notification. Neither can it be said that they are electrical goods, on account of the mere fact that electrical energy is used for melting them because they can be melted by using other source of energy as well. The Bench observed that if the argument of the department is accepted that on account of the fact that electrical energy is used for melting electrodes and as such they are to be classified as electrical goods, the same will lead to the anomalous result that the character of electrodes will keep on changing with the source of energy used for melting them. On this ground it was held that the electrodes were not electrical goods. This case is distinguishable because ammeters and voltmeters cannot at all be worked except by application of electrical energy.

4. In Bansilal Agarwal and Brothers v. Commissioner of Sales Tax 1958 9 S.T.C. 100 it was held that electrical goods according to its connotation may be those articles which could be used only with the application of electrical energy. It was also held that the articles meant to generate electrical energy were also within the purview of electrical goods. It is, thus, evident that the instruments or articles which are used for measuring electric current would be electrical goods.

5. For the assessee reliance was placed on Commissioner of Sales Tax v. Bharat Traders, Bareilly 1974 33 S.T.C. 3. In that case it was held that the two requirements of the electrical goods are that they must be used by electrical energy and that they must answer the description of electrical goods. Applying this decision, it is evident that ammeters and voltmeters are used by electrical energy and they are electrical goods. In our opinion, the ammeters and voltmeters were liable to be assessed as electrical goods. Our answer to the question referred to us is in the affirmative, in favour of the department and against the assessee. The Commissioner of Sales Tax would be entitled to costs which are assessed at Rs. 100.