(1974) 03 AHC CK 0029

In the Allahabad High Court

Case No : Sales Tax Reference No. 488 of 1972

Commissioner of Sales Tax APPELLANT

Vs

Mohd. Farooq RESPONDENT

Date of Decision : 29-03-1974

Acts Referred:

Citation : (1975) 35 STC 509

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

Bench : Division Bench

Advocate : Ashok Gupta, for the Respondent

Judgement

Satish Chandra, J.—The question referred to us is : "whether small nails used as shoe material was taxable as hardware within the meaning of Notification No. ST-1367/X-1045(19)-1960 dated 5th April, 1961?

2. A Division Bench of this Court in Commissioner of Sales Tax v. Aftab Husain Imdad Husain 1970 25 S.T.C. 471 has held that mill-stores and hardware were two allied trades, that mill-stores comprised of items like small tools and spare parts of machinery, that the hardware trade refers ordinarily to small items of base metals particularly building materials like nuts, bolts, hinges, latches, curtain railings, rivets, window grills, etc. In Commissioner of Sales Tax v. Sukhmangal Prasaddam Murat Sales Tax Reference No. 276 of 1970 decided on 20th November, 1970 (Allahabad High Court), a Division Bench held that in view of the decision in Aftab Husain''s case 1970 25 S.T.C. 471 nails must be treated as included in the expression "hardware".

3. In view of these decisions, we answer the question referred to us by saying that nails were taxable as hardware under the aforesaid notification. The Commissioner of Sales Tax will be entitled to costs which we assess at Rs. 100. Reference answered accordingly.