(1988) 10 AHC CK 0002

In the Allahabad High Court

Case No : Sales Tax Revision No''s. 870 and 871 to 886 of 1988

Commissioner, Sales Tax APPELLANT

Vs

Harbans Lal Malhotra and Sons Ltd. RESPONDENT

Date of Decision : 28-10-1988

Acts Referred:

Citation : (1989) 73 STC 133

Hon'ble Judges : R.R. Misra, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.R. Misra, J.—All these 17 revisions filed by the Commissioner, Sales Tax, U.P., against the provisional assessment orders for the various months of the years 1985 to 1987 raise a common controversy and are directed against two consolidated orders each dated 2nd April, 1988 passed by the Sales Tax Tribunal in regard to the same assessee.

2. During the said years in question the assessee manufactured safety razor blades at Ghaziabad. The dispute between the parties centres round the rate of tax at which the safety razor blades manufactured by the assessee are liable to be taxed. According to the department the said razor blades are to be taxed at the rate of 12 per cent as stainless steel item but according to the assessee since the said blades are not stainless steel items, the same are unclassified items and to be taxed at the rate of 8 per cent.

3. I have heard the learned Standing Counsel appearing on behalf of the Commissioner, Sales Tax. In the impugned order, the Sales Tax Tribunal has stated as follows :

Moreover, the magnetic test was carried out and it was found that the said blades were susceptible to magnetic test and rust also.

4. Besides the above finding the Tribunal has also relied upon a decision of this

Court in the case of Sharpedge Limited, Meerut v. Commissioner of Sales Tax, U.P., Lucknow 1987 UPTC 1321 wherein it has been held that the Erasmic blades manufactured by the assessee are commercially not stainless steel items but are liable to be taxed as unclassified item. It has been further held that the popular concept of stainless steel items lacks in blades. Adverting back to the concept of the stainless steel blades, I find that in the Encyclopedia Americana, International Edition, Volume 25, the word "stainless steel" has been stated as an alloy steel that has excellent resistance to rusting. In the New International Dictionary at page 2220 it has been stated as follows :

an alloy steel practically immune to rusting and ordinary corrosion having as its essential alloying constituent chromium usu. 12 to 14 per cent but sometimes more in content.

5. It is, therefore, amply clear that in order to classify the goods manufactured by the assessee under the head "stainless steel" it must be immune to rusting. On the finding recorded by the Sales Tax Tribunal, the articles manufactured by the assessee are not immune to rust. Further in the case of Advance Bricks Company v. Assessing Authority, Rohtak 1988 UPTC 126, in paragraph No. 5 of the judgment Honourable the Supreme Court has taken the view that in the absence of a statutory definition of the term "brick", the common parlance meaning of the word as found in the dictionaries has to be accepted. In these circumstances and in view of the decision of this Court in the case of Sharpedge Limited, Meerut 1987 UPTC 1321 and the findings recorded by the Sales Tax Tribunal to my mind the blades manufactured by the assessee are not stainless steel items but are unclassified items. In this view of the matter, I find that there is no error involved in the impugned orders passed by the Tribunal.

6. In the result, all the revisions fail and are dismissed with one set of cost.

