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(1997) 05 AHC CK 0146

In the Allahabad High Court

Case No : Sales Tax Revision No. 15 of 1993

Commissioner, Sales Tax APPELLANT

Vs

R.K. Wires Pvt. Ltd. RESPONDENT

Date of Decision : 15-05-1997

Acts Referred:

Citation : (2003) 133 STC 415

Hon'ble Judges : M.C. Agarwal, J

Bench : Single Bench

Advocate : U.K. Pandey, for the Appellant; Rakesh Kumar Agarwal, for the Respondent

Final Decision : Dismissed

Judgement

M.C. Agarwal, J.—By this revision petition u/s 11 of the U.P. Sales Tax Act, 1948 the Commissioner challenges an order dated September 16, 1992 by which the Commissioner''s appeal arising out of the dealer''s assessment for the assessment year 1972-73 has been dismissed.

2. I have heard Sri U.K. Pandey, learned Standing Counsel for the applicant and Sri Rakesh Kumar Agarwal, learned counsel for the respondent.

3. The dealer manufactures aluminium conductors which are supplied to the electricity authorities and are used for supporting the electricity poles installed for transmission of electrical energy. The question is whether the said conductors are taxable as unclassified item or as electrical equipments, plants and they are accessories required for generation, distribution and transmission of electrical energy or they are electrical motors or parts thereof taxable as unclassified items and taxable at the rate of 3 per cent or in the later category, they are taxable at the rate of 7 per cent (sic).

4. The assessing officer treated the same as accessories under the aforesaid items and taxed the same at the rate of 7 per cent. On appeal, the Assistant Commissioner (Judicial) found that there was no evidence on record to show that

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the article in question is used for distribution of electrical energy. He, therefore, held that the said conductors were taxable as unclassified item. This finding has been upheld by the Tribunal which observed that on enquiry from the Kanpur Electricity Supply Administration, it was stated that the said conductors purchased by it from the dealer-respondent were used for supporting the electrical poles. The Tribunal, therefore, took the view that the conductors were not used for transmission of electrical energy.

5. The item dealing with the electrical equipments, plants and their accessories and electrical motors shows that it would cover electrical equipments, plants and their accessories and electrical motors required for generation, distribution and transmission of electrical energy and refers to things that fall in the description of equipments, plants and their accessories directly used for generation, distribution and transmission of electrical energy. Things like aluminium conductors which indirectly help in the transmission of electrical energy through the wires fixed on the electrical poles cannot be roped in the aforesaid description. Therefore, in my view, the Tribunal was right in holding that the aforesaid articles do not come within the aforesaid description and were taxable as unclassified items. Therefore, there is no illegality in the Tribunal''s order and the revision petition is hereby dismissed.

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