
(1998) 08 SC CK 0058

In the Supreme Court Of India

Case No : Civil Appeal No. 769 of 1995

Executive Engineer, Electricity Store Division, U.P.

APPELLANT

Vs

Commissioner, Sales Tax, U.P.

RESPONDENT

Date of Decision : 06-08-1998

Acts Referred:

Uttar Pradesh Sales Tax Act, 1948 — Section 3A(1)

Citation : (1999) 5 JT 231 : (1999) 1 SCC 704

Hon'ble Judges : S. P. Bharucha, J;G. B. Pattanaik, J

Bench : Division Bench

Final Decision : Allowed

Judgement

S.P. Bharucha, J.—The appellant is an officer of the U.P. State Electricity Board. The Board is engaged in the generation, transmission and distribution of electrical energy. For this purpose, it uses transformers. When the transformers are burnt or otherwise become unutilisable, they are sold. The question, specifically, is whether when such core stamping, which are bunches of tin plates that are placed within the transformers, are sold, they are liable to sales tax under Entry 3 of the notification dated 7.9.1981 issued in exercise of powers u/s 3A(1)(e) of the U. P. Sales Tax Act, 1948 or under Entry 32 thereof. It is the contention of the appellant that the appropriate entry is Entry 3. The High court has found the appropriate entry to be Entry 32.

2. Entry 3 relates to "all kinds of minerals, ores, metals, scraps and alloys including sheets and circles used in the manufacture of brassware...". Entry 32 relates to "old, discarded, unserviceable or obsolete machinery, stores or vehicles including waste products...."

3. We are in doubt that the appropriate entry for the core stamping that come out of old and discarded transformers must be taxed under Entry 32 as old, discarded and unserviceable machinery and that they do not fall within the scope of Entry 3 which plainly relates to scrap of metal, i.e., of metal as such.

4. The appeal is dismissed with no order as to costs.