(2008) 08 AHC CK 0333

In the Allahabad High Court

The Commissioner, Trade Tax — APPELLANT

Vs

Clytex Transformer Corporation — RESPONDENT

Date of Decision : 05-08-2008

Acts Referred:

Citation : (2010) 33 VST 155

Hon'ble Judges : Prakash Krishna, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prakash Krishna, J.—The only dispute raised in the present revision is as to whether stabilizer is liable to be taxed as electronic goods or as an electrical goods.

2. The dispute relates to the assessment year 1994-95. The dealer opposite party carries on the business of manufacturing and sale of voltage stabilizer. In the assessment proceeding the dealer opposite party claimed that voltage stabilizer is liable to be taxed as electronic goods. The said claim was not accepted and it was treated as electrical goods and was taxed accordingly at the rate of 10 per cent by the order dated 29th September, 1997 which was confirmed in the first appeal also. The tribunal in further appeal i.e. second appeal No. 195 of 1999 held that solid-state stabilizer is nothing but electronic goods and ordered that it shall be taxed at the rate of 5 per cent.

3. In the memo of revision the following question of law has been framed:

1. Whether on the facts and in the circumstances of the case, the Trade Tax Tribunal was legally justified to hold, that the commodity in question die Voltage Stabilizer as electronic goods without applying the proper test of mechanism of the Voltage Stabilizer?

4. Heard the learned standing counsel. None is present on behalf of the dealer opposite party in spite of service. The controversy involved in the present

revision is no longer res-integra and has been set at rest by me in Commissioner of Trade Tax v. S/S Parikh Gramodyog Sansthan 2003 UPTC 603 wherein the Entry 74 of Notification No. 1223 dated 31st of March, 1992, its amendment by notification No. 3420 dated 1st October, 1994 and the circular dated 6th June, 1992 issued by the Commissioner of Sales Tax in relation to the notification dated 31st of March, 1992 with respect to Entry 74 A have been considered and it has been held that at serial No. 60 of the notification referred to above solid-state stabilizer and at serial No. 79 servo control-voltage stabilizer have been mentioned in the list of the electronic goods and as such they are electronic goods.

5. In view of the aforesaid pronouncement, the view taken by the tribunal by the order under revision cannot be said to be unjustified and illegal.

6. In addition to the above, the tribunal has also noticed that in the assessment year 1993-94, 1996-97 and 1997-98 the assessing authority itself has considered the solid-state stabilizer in the case of the dealer as electronic goods Except in the assessment year in question, the assessing authority all through has treated the solid-state stabilizer as electronic goods.

7. In view of the above discussion, I find no merit in the revision. The revision is dismissed. But no order as to costs.