

Supreme Court of India

State Of U.P. And Anr. vs Engineering Traders on 10 February, 1988

Equivalent citations: JT 1988 (1) SC 485, 1989 Supp (2) SCC 416

Author: S Mukharji

Bench: S Mukharji, S Ranganathan

JUDGMENT Sabyasachi Mukharji, J.

1. In these two appeals the only question with which we are concerned, is whether water pumps were agricultural implements and, as such, liable to be taxed at a lower rate of taxation under the Uttar Pradesh Sales Tax Act. and the Notifications issued there under. We are concerned with the assessment years 1966-67 and 1967-68. The Full Bench of the Allahabad High Court in *Engineering Traders v. State of U.P. and Anr.* (31 Sales tax case 456) had held that "water pump sets were connected intimately with agriculture and were commonly used and understood as agricultural implements and they, therefore, fell under entry 38 of the schedule to the Notification No, ST-1365/X-9901956 dated April 1, 1960". Further it held that "in order that an appliance may be an agricultural implement, the real test is not that it should be exclusively used for agricultural purposes but that it should be commonly so used and it. should be intimately and directly connected with agricultural operations.

2. By Section 31 of the Amending Act of Uttar Pradesh Sales Tax (Amendment and Validation) Act, 1975, being U.P. Act No. 38 of 1975, the relevant Notification has been amended and the words "Agricultural implements, other than implements worked by human or animal power and water pumps" (emphasis supplied) has been substituted and was deemed to have been substituted in place of the previous expression used. The previous expressions were "Agricultural implements, other than those worked by human or animal power". In that view of the matter, the decision of the Full Bench of the Allahabad High Court cannot any longer be sustained. In the premises in view of the fact that retrospective effect has been given to this amendment, the order of the Sales Tax officer has to be restored and the subsequent orders of the High Court are set aside. The appeals are, therefore, allowed. In the facts and circumstances of the case, there will be no order .

3. The validity of the retrospective effect of the amendment was not challenged before us.

Civil Appeals Nos. 221. of 1976 and 1809 of 1975:

For the reasons stated in the above appeals, these appeals are also allowed. There will be no order as to costs.