

(1970) 02 AHC CK 0010

Allahabad High Court

Case No: S.T.R. No. 187 of 1969

Commissioner, Sales Tax

APPELLANT

Vs

Ajay Metal Products

RESPONDENT

Date of Decision: Feb. 23, 1970

Acts Referred:

- Uttar Pradesh Sales Tax Act, 1948 - Section 11(1)

Citation: (1970) 26 STC 433

Hon'ble Judges: Satish Chandra, J; R.L. Gulati, J

Bench: Division Bench

Final Decision: Disposed Of

Judgement

R.L. Gulati, J.

u/s 11(1), U.P. Sales Tax Act, the Additional Judge (Revisions) Sales Tax, Agra, has submitted the statement of the case and has invited the opinion of this court on the following question of law :-

Whether the steel doors are hardwares taxable at 3 per cent. or building materials taxable at 2 per cent. ?

2. The assessee manufactures and sells steel almirahs and steel doors. The dispute relates to the turnover of steel doors in respect of the assessment year 1963-64. The department assessed his turnover at the rate of 3 per cent. treating it to be an article of hardware, whereas the assessee contended that the out-turn should have been assessed at 2 per cent. as building material u/s 3 of the Act. In S.T.R. No. 576 of 1968* decided on the 13th November, 1969, a Division Bench of this court, while dealing with a similar question relating to steel trunk, has pointed out the distinction between the hardware industry and the iron and steel industry as is understood in the commercial community. Following that judgment we are of the opinion that the steel doors will not be covered by the term hardware. They would be an unclassified commodity and may be described as building material. Therefore

the turnover of steel doors would be taxable u/s 3 and not at 3 per cent. as classified item. We accordingly answer the question by saying steel doors are not hardwares and as such will be taxable at 2 per cent. as unclassified item or as building material but not at 3 per cent. as an item of hardware. As no one has appeared on behalf of the assessee, we make no order as to costs. The fee of the learned counsel for the department is assessed at Rs. 100.

*Since reported as Commissioner of Sales Tax, U. P. v. Aftab Husain Imdad Husain [1970] 25 S.T.C. 471.