

SUPREME COURT OF INDIA

Ram Bux Chaturbhuj

Vs.

State of Rajasthan

Petitions Nos. 10 and 11 of 1959

(S. K. Das, J. L. Kapur, M. Hidayatullah, J. C. Shah and T. L. Venkatarama Ayyar, JJ.)

14.05.1961

JUDGEMENT

KAPUR, J.:

1. These petitions under Art. 32 are directed against the orders made by the Assistant Sales Tax Officer, Jodhpur, calling upon the petitioners in the two petitions to produce their accounts for the years 1955-56, 1956-57 and 1957-58 for the purpose of assessment to sales tax under S. 10 of the Rajasthan Sales Tax Act 1954 (Act XXIX of 1954), hereinafter referred to as the "Act". The petitioner in W. P. No. 10 / 59 Ram Bux Chaturbhuj and some other Pan (betel leaves) sellers filed a petition in the High Court of Rajasthan challenging the notice sent to them but that petition was dismissed by the High Court. They obtained a certificate for appealing to this Court and also obtained special leave to appeal to this Court but subsequently withheld the appeal and filed the present, petitioner in W. P. No. 10/59. But the petitioner in W.P.No. 11/59 states that he did not file any such petition. It is not necessary in this case to decide as to the effect of the judgment of the High Court because in our opinion these petitions are without any substance.

2. The main contention of the petitioners is that betel leaves are vegetables and are therefore exempt from taxation under the Act, Section 4 of the Act provides as follows :

"S. 4(1) No tax shall be payable under this Act on the sale of any of the exempted goods if the conditions specified in column 3 of the schedule are satisfied.

(2) Where the State Government is of opinion that it is necessary or expedient in the public interest so to do the State Government may, by notification in the Official Gazette, exempt from tax the sale of any goods or class of goods or any person or class of persons on such conditions and on payment of such fee as may be specified in the notification."

Section 10 of the Act deals with assessment and Schedule 2 contains the articles on which no sales tax is payable under the Act. Item 2 of that Schedule is as follows :-

S. No. Description of Goods Conditions and exceptions subject to which exception is allowed.

2. Fresh fruits, sugarcane, vegetables, onions and garlic, vegetables and flowerseeds, bulbous plants, excluding or-chids. Except (1) any medicine prepared from any or more of such articles and (2) when any such article is sold in sealed containers.

The inclusion in this item of onions, garlic, etc. along with fresh fruits, sugarcane and vegetables indicates the use of the word "vegetables" in its popular sense of vegetables grown in the kitchen garden for use for the table. Moreover this word "vegetables" is not defined in the Act and in *Ramavatar v. Assistant Sales Tax Officer Akola* W. P. No. 4 of 1958: (AIR 1961 SC 1325)), which has been decided today it has been held that the word "vegetables" does not include Pan (betel leaves). Therefore betel leaves are taxable under the provisions of the Act.

3. It was next submitted that the notification dated April 1, 1958, which exempts betel leaves from the imposition of sales tax on the condition that the dealer holds a valid certificate of exemption on payment of Rs. 10/- annual fee is an indirect method of leading the tax and is an imposition without the authority of law which contravenes Arts. 14 and 19(1)(g,) of the Constitution. This contention is equally without force because S. 4(2) of the Act itself provides for conditional exemptions "on payment of such fee as may be specified in the notification." As said above betel leaves are not within the word "vegetables" and are therefore taxable. There is no discrimination between persons similarly placed. By making a distinction between persons selling betel leaves and those selling vegetables no infringement of Art. 14 is established. As it is a void fee it cannot be said that it is an infringement of Art. 19 (I)(g) of the Constitution.

4. We therefore dismiss these petition with costs. One hearing fee.

Petitions dismissed.

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