

Southern Roadways (Private) Ltd

Vs

Union of India and Another

(CJI B. P. Sinha, J. L. Kapur, M. Hidayatullah, J. C. Shah, J. R. Mudholkar JJ)

16.01.1962

JUDGMENT

KAPUR J. –

This is a petition by the assessee under article 32 of the Constitution challenging the constitutionality of the second proviso to section 10 (2) (vi-b), Income-tax Act, introduced by the Taxation Laws (Amendment) Act (28 of 1960). The relevant section with the proviso is as follows :

"10. (1) The tax shall be payable by an assessee under the head 'profits and gains of business, profession or vocation' in respect of the profits or gains of any business, profession or vocation carried on by him.

(2) such profits or gains shall be computed after making the following allowances, namely :....

(vib) in respect of machinery or plant being new, which has been installed after the 31st of March, 1954, and which is wholly used for the purposes of the business carried on by the assessee, a sum by way of development rebate in respect of the year of installation equivalent to twenty-five per cent. of the actual cost of such machinery or plant to the assessee.

Provided that no allowance under this clause shall be made unless the particulars prescribed for the purpose of clause (vi) have been furnished by the assessee in respect of such machinery or plant :

Provided further that no allowance under this clause shall be made in respect of any machinery or plant which consist of office appliances or road transport vehicles."

The petitioner is a limited company with its registered office at Madurai in the State of Madras which owns a fleet of buses and lorries and carries on the business of transport. In respect of assessment year 1960-61 it claimed a development rebate on all its plants and machinery including business. The Income-tax Officer disallowed the claim of rebate on transport vehicles under the proviso above quoted and computed the tax payable without such rebate. It was contended on behalf of the petitioner that the provision offends article 14 in that it discriminates between machinery which is office appliance or road transport vehicles and other kind of machinery. It is difficult to accept such a contention because there is nothing in the Constitution which prevents the Legislature from choosing the object of taxation from amongst various classes of machinery for the purpose of giving development rebate. The Constitution does not prohibit any such classification which has been made in the present case.

The petition is wholly without merit and is therefore dismissed and the rule is discharged. The

petitioner will pay the costs of the respondents.

Petition dismissed.

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