

Sadiq Bakery and Others

Vs

State of A. P. and Others

Writ Petitions (Civil) Nos. 5117 and 7340 of 1981, 3656-84, 6381-82, 6951-52, 8010-19, 8108-11 and 9019-20 of 1982 and 5241-60, 1734-35 and 559-560 of 1983

(S. Ranganathan, Sabyasachi Mukharji JJ)

24.11.1987

JUDGMENT

SABYASACHI MUKHARJI, J. –

1. W.P. Nos. 5117/81, 3656-84/82, 5241-5260/83 and 7340/81. These four batches of writ petitions challenge the imposition of sales tax on bread, rusk and bun under the A.P. Sales Tax Act, 1957 as illegal. The main and the first contention was that the bread and biscuits belong to one homogenous class but these have been differently treated for taxation under Schedule I, Item 117 and Schedule I, Item 129 of the said Act. In other words, the contention of the petitioners is that the bread and biscuits are the same, they should not be differently taxed. The purchasers and sellers of bread and biscuits have been differently taxed. In support of this contention reliance was placed on certain decisions of this Court, namely : State of A.P. v. Nalla Raja Reddy [(1967) 3 SCR 28 AIR 1967 SC 1458]; New Manek Chowk Spinning and Weaving Mills Co. Ltd. v. Municipal Corporation of the City of Ahmedabad [(1967) 2 SCR 679 : AIR 1967 SC 1801]. We do not find any proposition in those decisions in support of this contention of the petitioners. The decision of the Allahabad High Court in Annapurna Biscuit (Mfg.) Co. v. State of U.P. [(1975) 35 STC 127 (All)] does not deal with this contention at all.

2. The second contention sought to be raised was that the multiple point tax violates Article 19(1)(g) of the Constitution. The petitioners being bakeries, this contention is not open to the petitioners.

3. The third contention sought to be raised was that excise duty and sales tax are imposed on the same items. This also does not arise in the case of the petitioners who are bakeries. Apart from that the taxable events in these two impositions are different. So this contention cannot in any event be raised.

4. The fourth contention sought to be raised was the surcharge. This point in our opinion does not arise. Furthermore this point is concluded by the observations of this Court in the case of Hoechst Pharmaceuticals Ltd. v. State of Bihar [(1983) 3 SCR 130 : (1983) 4 SCC 45 : 1983 SCC (Tax) 248]. Indeed all these contentions raised on behalf of the petitioners have been negated by this Court in the aforesaid decision.

5. We reiterate that the economic wisdom of a tax or lack of it are within the exclusive domain of the legislature. The only question for the court to consider is whether there is rationality in that behalf of the legislature that capacity to pay the tax increases by and large with an increase of receipts. From any point of view there is rationality in this proposition. It is sound commonsense. It

is in consonance with social justice to which we are committed by our Constitution.

6. In that view of the matter the challenge to the imposition under Article 14 as well as Article 19(1)(g) of the Constitution are not sustainable.

7. These writ petitions must fail and are dismissed accordingly. There will be no order as to costs. Interim orders, if any, are vacated.

W.P. Nos. 6381-82/82, 6951-52/82, 8010-19/82, 8108-11/82, 9019-20/82, 1734-35/83 and 559-560/83 :

8. In view of the judgment in W.P. Nos. 5117/81, 3656-84/82, 5241-5260/83 and 7340/81, these petitions must also fail and are accordingly dismissed. There will be no order as to costs.

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