

M/s Weston Electroniks and Another

Vs

State of Maharashtra and Another

Writ Petitions Nos. 1033 and 844 of 1986

(CJI R.S. Pathak, Ranganath Misra JJ)

29.04.1988

JUDGMENT

PATHAK, C. J. –

1. By Writ Petition No. 1033 of 1986 under Article 32 of the Constitution the petitioners challenge the constitutional validity of Notification Nos. STA 1085/175/RES-8 dated November 19, 1985 and No. STA 1085/175/RES-8 dated June 30, 1986 issued under the Bombay Sales Tax Act, 1959 whereby sales tax on the turnover of electronics goods manufactured within the State of Maharashtra has been levied at 4 Per cent only while sales tax on similar goods imported from outside the State, including such goods manufactured by the petitioners, is imposed at 15 per cent.

2. The petitioners manufacture television sets, television cameras and television monitors at various factories in Delhi and market them through several sales organisations throughout India, including the State of Maharashtra. Section 8 of the Bombay Sales Tax Act, 1959 provides for the levy of single point sales tax on the turnover of sales of goods specified in Schedule 'C'. Entry 91 of Part II of Schedule 'C' specifies a rate of sales tax at 15 per cent on television sets, television cameras and television monitors. It appears that up to November 19, 1985 the same rate of tax was applicable to the sale of television sets whether manufactured within the State of Maharashtra or imported from outside the State. On November 19, 1985, however, a Notification No. STA 1085/175/RES-8 was issued under sub-section (1) of Section 41 of the Act, which subsection empowers the State Government to exempt any specified class of sales from payment of the whole or any part of tax payable under the Act. Thereby entry 223 was added to the list of exemptions, providing for a rate of 4 per cent as sales tax on television sets, television cameras and television monitors manufactured in the State of Maharashtra. Subsequently, Notification No. STA 1085/175/RES-8 dated June 30, 1986 was issued in somewhat different terms but maintaining the rate of sales tax at 4 per cent.

3. The petitioners in Writ Petition No. 844 of 1986 are also manufacturers of television sets, which are imported into State of Maharashtra. They challenge the notification dated November 19, 1985 mentioned above, and on identical grounds.

4. The petitioners contended that the two notifications infringe Article 301 and clause (1) of Article 303 of the Constitution and are not protected by clause (a) of Article 304 of the Constitution. For the reasons set forth in our judgment in Writ Petition No. 1032 of 1986, M/s Weston Electroniks v. State of Gujarat [(1988) 2 SCC 568], delivered today the notifications are liable to be quashed.

5. Accordingly, the writ petitions are allowed, the Notifications No. STA 1085/175/RES-8 dated November 19, 1985 and No. STA 1085/175/RES-8 dated June 30, 1986 are quashed insofar as they

impose a rate of 4 per cent tax for television sets and antennae, television cameras, television monitors and components, parts and accessories of any of them.

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