

M/S. Hari Chand Ghanshyam Das and Others

Vs

State of U. P. and Others

Civil Appeal No. 1243 of 1980 with Civil Appeal Nos. 1244, 1225-27, 1066, 1067, 2001 and 2447 of 1980

(K. N. Singh, K. Ramaswamy JJ)

08.01.1991

ORDER

1. These appeals are directed against the judgment of the High Court of Allahabad dismissing the writ petitions filed by the appellants challenging validity of the imposition of sales tax on the sale of exercise books, levied by the U.P. Sales Tax (Amendment and Validation) Act 23 of 1976.
2. The appellants are manufacturers and dealers in exercise books. Prior to May 20, 1976 the sale of exercise books was exempted from sales tax provided the exercise books were made from paper purchased within Uttar Pradesh. On May 20, 1976 the State legislature enacted the U.P. Sales Tax (Amendment and Validation) Act 23 of 1976 which imposed a levy of sales tax on exercise books with retrospective effect, namely, from December 1, 1973. The Amending Act contained a validation clause validating the imposition of the tax notwithstanding any judgment, decree or order of any court. The Amending Act made exercise books of all kinds taxable at 5 per cent. The appellants challenged the validity of the Amending Act of 1976 on a number of grounds. A Division Bench of the High Court repelled the challenge to the Amending Act by an elaborate judgment. In the appeal before us, learned counsel for the appellants challenge the validity of the Act on the ground that the imposition of tax with retrospective effect was unreasonable and discriminatory. After hearing learned counsel for the parties, we do not find any merit in the appellants' contention. There are a number of decisions, some of them have been referred to in the impugned judgment upholding the validity of levy of tax with retrospective effect. We therefore find no merit in these appeals.
3. Learned counsel for the appellants urged that in order to avoid hardship to dealers, the State Government issued an administrative instruction to the Commissioner of Sales Tax that the tax levied on paper which was raw material for the manufacture of exercise books between December 1, 1973 and May 20, 1976 shall be adjusted against liability to pay sales tax on exercise books made from locally purchased paper. The administrative instruction had been issued to mitigate the hardship likely to be caused to the dealers. It is urged on behalf of the appellants that the exercise books were manufactured after purchasing paper from the State Government on controlled price which included 5 per cent sales tax and one per cent surcharge, therefore, the sales tax authorities should adjust the same while determining the sales tax payable by them in accordance with the administrative instruction as aforesaid. We do not think it necessary to express any opinion on this contention as it involves investigations of facts in each case. It is open to the appellants to raise this question before the appropriate sales tax authorities and it on investigation of facts, it is found that the appellants are entitled to the benefit of the directions issued by the State Government as aforesaid, they would be granted relief to that extent.

4. In the result, we do not find any merit in these appeals, the appeals fail, but there will be no order as to costs.

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