

State of Rajasthan

Vs

Khalsa Travels

Civil Appeals No. 10457 of 1995 with Nos. 10458-63, 10567, 10464, 10465, 10467-84 of 1995

(S. C. Agarwal, G. T. Nanavati JJ)

27.02.1998

ORDER

1. These appeals filed by the State of Rajasthan raise questions relating to the constitutional validity of Section 4-B(3) of the Rajasthan Motor Vehicles Taxation Act, 1951 (hereinafter referred to as "the Act") and Rule 4-CC of the Rajasthan Motor Vehicles Taxation Rules, 1951 (hereinafter referred to as "the Rules") which make provision for levy of special road tax on a transport vehicle which is used without a valid permit or in any manner not authorised by the permit. By the impugned judgments the High Court has held that Section 4-B(3) is ultra vires the legislative powers conferred on the State Legislature and that Rule 4-CC which has been made to effectuate the said provision was also ultra vires the rule-making powers conferred on the State Government under the Act.

2. According to the High Court the imposition, though described as a tax, is, in substance, a fine for an alleged offence of plying the vehicle without a valid permit or in contravention of the conditions of permit and such a penalty cannot be treated as a part of regulatory or compensatory tax. On that view, the High Court has declared that Section 4-B(3) of the Act is ultra vires the powers conferred on the State Legislature under Entry 56 of List II of the Seventh Schedule to the Constitution of India. The question that falls for consideration in these appeals is whether the imposition under Section 4-B(3) is not a tax but a penalty and is ultra vires the legislative powers of the State Legislature under Entry 56 and Entry 57 of List II.

3. Having regard to the importance of the question, we consider it appropriate that these matters are considered by a Bench of three Judges. The matters may, therefore, be placed before the Hon'ble Chief Justice for necessary directions.