

# PUNJABA AND HARYANA HIGH COURT

Desh Raj Parshotam Lal

Vs

State of Punjab

Civil Writ Petition No. 2145 of 1978

(S.S. Sandhawalia, C.J. and P.C. Jain and S.S. Dewan, JJ.)

24.07.1978

## JUDGMENT

### **S.S. Sandhawalia, C.J.**

1. In this set of four Civil Writ Petition Nos. 2145, 2459 and 2191 of 1978 and No. 3316 of 1977, the primary and indeed the only challenge laid is against the constitutional validity of Section 8(1), (2), (2A) and Section 9(2), (3) of the Central Sales Tax Act, 1956 (hereinafter referred to as the Act).
2. In view of what follows, it is wholly unnecessary to advert to the facts. It would, however, suffice to mention that the primary consideration for placing these cases before the Full Bench was the apparent conflict between the Single Bench decision of this Court in *Malwa Sugar Mills Co. Ltd. v. The Assessing Authority, Sangrur*<sup>1</sup>, and the subsequent Division Bench judgment reported in *Babu Ram Jagdish Kumar & Co. v. The State of Punjab and others*<sup>2</sup>.
3. Mr. R.C. Dogra and Mr. Shaukat Ali, appearing for the petitioners in all the four cases, have frankly conceded their total inability to lay any challenge to the *vires* of Sections 8 and 9 of the Act in face of the binding precedent of the Supreme Court. Both the learned counsel have very fairly brought to our notice that in *State of Tamil Nadu and another v. Sitalakshmi Mills and others*<sup>3</sup>, their Lordships of the Supreme Court repelled the twin challenge to their validity raised on the basis of Article 301 of the Constitution of India and an argument of abdication of legislative authority by Parliament. It has been fairly conceded that, in view of this judgment and those referred to below, nothing now survives in the present cases.
4. All that now remains is to examine the correctness of the Single Bench judgment in *Malwa Sugar Mills'* case (supra) because of the observations made on the 24th of May, 1978, by the Motion Bench in Civil Writ Petition No. 2145 of 1978. It is evident on a reference to the said judgment that the same was apparently decided as a matter of first impression and the binding precedents of the earlier Supreme Court cases were not brought to the notice of the learned Single Judge. Even otherwise, it is manifest that the issue was not adequately agitated and neither principle nor authority has been adverted to in depth for arriving at the ultimate conclusion. The significant thing then is that in the Division Bench judgment in *Babu Ram Jagdish Kumar's* case

(supra) later the issue was even considered exhaustively by the Division Bench and a wide variety of challenges to the constitutionality of the provisions assailed therein was repelled. Mr. Dogra further conceded that the identical argument raised earlier before the learned Single Judge in Malwa Sugar Mills' case (supra) was raised before the Division Bench also and rejected in terms as a contention having no substance. The significant thing is that the learned counsel for the petitioners have not even remotely raised a single argument to assail the correctness of the view expressed by the Division Bench in Babu Ram Jagdish Kumar's case (supra). It is wasteful to traverse the same ground over again and agreeing with the Division Bench we overrule the Single Bench judgment in *Malwa Sugar Mills Co. Ltd. v. The Assessing Authority, Sangrur*.

5. Lastly, we may notice the recent Division Bench judgment of this Court in Civil Writ Petition No. 6780 of 1976, decided on 21st July, 1978, wherein also an identical challenge directed against the very provisions of Sections 8 and 9 of the Act has been repelled.

6. It calls for specific mention that not the least argument was raised to assail the validity of Section 5 of the Punjab General Sales Tax Act in Civil Writ petition Nos. 2145, 2459 and 2191 of 1978.

7. There is no merit at all in any of these writ petitions. All the four writ petitions are hereby dismissed. However, in view of the very fair stand taken by the learned counsel for the petitioners, we are disinclined to burden the petitioners with costs.

Petitions dismissed.

Cases Referred.

11976 R.L.R. 161  
2(1976)33 S.T.C. 259  
3(1974)33 S.T.C. 200