

SADIQ BAKERY ETC.
v.
STATE OF A.P. & ORS.

A

NOVEMBER 24, 1987

[SABYASACHI MUKHARJI AND S. RANGANATHAN, JJ.] B

Constitution of India, 1950: Articles 14 and 19(1)(b)—Sales Tax—Different rates for bread and biscuits—A.P. Sales Tax Act, 1952 Schedule I Item Nos. 117 and 129—Validity of.

Andhra Pradesh Sales Tax Act, 1957: Schedule I Item Nos. 117 & 129—Bread and biscuits—Imposition of sales tax at different rates, whether constitutionally valid and legal. C

Statutory Interpretation: Economic wisdom of a tax or lack of it—Within the exclusive domain of the legislature—Court to see that capacity to pay tax increases by and large with increase of receipts. D

In a batch of Writ Petitions filed in this Court the petitioners challenged the imposition of sales tax and surcharge on bread, rusk and bun under the A.P. Sales Tax Act, 1957 as illegal, contending that bread and biscuits belonged to one homogeneous class but had been treated differently for purposes of taxation under Schedule I, Item No. 117 and Item No. 129 of the Act, that the purchasers and sellers of bread and biscuits had been differently taxed, and that the multiple point tax violated Article 19(1)(g) of the Constitution. E

Dismissing the writ petitions, F

HELD: 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 increased by and large with the increase of receipts. From any point of view, there is rationality in this proposition. It is sound commonsense and is in consonance with social justice. Therefore, the challenge to the imposition, under Article 14 as well as Article 19(1)(g) of the Constitution is not sustainable. [9D-F] G

State of Andhra Pradesh & Anr. v. Nalla Raja Reddy & Ors., [1967] 3 SCR 28; New Menek Chowk Spinning and Weaving Mills Co. H

A *Ltd. and Ors. v. Municipal Corporation of the City of Ahmedabad and Others.*, [1967] 2 SCR 679; *Annapurna Biscuit (Mfg.) Co. and Another v. The State of U.P. and Another*, [1975] 35 S.T.C 127 and *Hoechst Pharmaceuticals Ltd. and Another Etc. v. State of Bihar and Others*, [1983] SCR 130, referred to.

B ORIGINAL JURISDICTION: Writ Petitions (Civil) Nos. 5117/81, 7340/81, 3656-84/82, 6381-82, 6951-52/82, 8010-19/82, 8108-11/82, 9019-20/82, 5241-60/83, 1734-35/83 and 559-560/83.

(Under Article 32 of the Constitution of India).

B. Kanta Rao for the Petitioners.

C C. Seetharamiah, T.V.S.N. Chari, Ms. Vrinda Grover, Ch. Badri Nath, A.K. Sanghi, G.S. Chatterjee P.N. Mishra, A.V. Rangam, Pramod Swarup, D. Goburdhan and M.N. Shroff for the Respondents.

D The Judgment of the Court was delivered by

SABYASACHI MUKHARJI, J.

W.P. Nos: 5117/81, 3656-84/82, 5241-5260/83. & 7340/81

E 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 homogeneous class but these have been differently treated for taxation under Schedule I, Item No. 117 and Schedule I, Item No. 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:-

G *State of Andhra Pradesh & Anr. v. Nalla Raja Reddy & Ors.*, [1967] 3 SCR 28; *New Manek Chowk Spinning and Weaving Mills Co. Ltd. and Ors. v. Municipal Corporation of the City of Ahmedabad and Others*, [1967] 2 SCR 679. 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. and Another v. The State of U.P. and Another*, [1975] 35 S.T.C.

H

127 does not deal with this contention at all.

A

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.

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.

B

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 and Another Etc. v. State of Bihar and Others*, [1983] 3 S.C.R. 130. Indeed all these contentions raised on behalf of the petitioners have been negated by this Court in the aforesaid decision.

C

D

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.

E

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.

F

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 & 559-560/83.

G

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.

N.P.V.

Petitions dismissed.