

M/S. KHADI AND VILLAGED SOAP INDUSTRIES

v.

STATE OF HARYANA & OTHERS

AUGUST 17, 1994

[J.S. VERMA AND K. RAMASWAMY, JJ.]

*Haryana General Sales Tax Act, 1973—Section 13 (1)—Exemption from payment of Sales Tax granted to Khadi Ashram, Panipat and its centralised units—Limit of exemption to other cooperative societies raised—Classification made between Khadi Ashram and other cooperative societies—Permissible and valid classification.*

*Constitution of India—Article 14—Sales Tax—Exemption granted to Khadi Ashram, Panipat and its units under Section 13 (1) of Haryana General Sales Tax Act, 1973—Classification made between Khadi Ashram, Panipat and other cooperative societies—Held: not discriminatory and violative of Article 14.*

Notification No. S.O. 153/H.A. 20/73/S.13/87 dated 30.12.1987 with grants exemptions from the payment of sales tax to the Khadi Ashram Panipat and its centralised units functioning within the State of Haryana in exercise of the powers conferred by sub-section (1) of Section 13 of the Haryana General Sales Tax Act, 1973, but limits the exemption to the other cooperative societies and persons to their turnover not exceeding five lakhs in a year was challenged as invalid. The question raised before the High Court as whether the classification made between the Khadi Ashram, Panipat and its units and the other co-operative societies was discriminatory and violative of Article 14 of the Constitution of India.

The High Court held that there was no discrimination inasmuch as the total exemption granted to the Khadi Ashram and its units while granting a limited exemption to others is a permissible and valid classification.

In these appeals by special leave, appellants reiterated the ground of discrimination to challenge the limit imposed. In reply it has been stated that it is for the Government to determine whether a particular industry falls within the category to which exemption can be granted under Section

A 13 of the Act. Distinguishing features to justify the classifications have been indicated and it has also been stated that accounts of Khadi Ashram, Panipat in Haryana are duly audited and their activities monitored effectively.

B Dismissing the matter, this Court

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HELD : The principles for determining the validity of classification in taxing statutes are well-settled and so also the limits of judicial review in testing the validity thereof on the touchstone of equality under Article 14. The test applicable for striking down a taxing provision on this ground is one of palpable arbitrariness in the context. A classification is permissible in a taxing statute of dealers on the basis of different turnovers for levying varying rates of sales tax. Thus, a classification made on the basis of turnover apart from the other distinguishing features of Khadi Ashram, Panipat and its units justifies putting them in a distinct class for the grant of total exemption from payment of sales tax particularly when there is no challenge by the other Khadi units. [677-H, 678-A-C]

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*Kerala Hotel and Restaurant Association and Ors. v. State of Kerala and Ors.*, [1990] 2 SCC 502, relied on.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4236 of 1991 etc.

From the Judgment and Order dated 14.11.90 of the Punjab & Haryana High Court in C.W.P. No. 14563 of 1990.

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G. Vishwanatha Iyer and Prem Malhotra Advs. for the Appellants.

I.S. Goyal, Indu Malhotra and Uma Datta for the Respondents.

The Judgment of the Court was delivered by

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VERMA, J. The challenge in these appeals is to a part of the Notification No. S.O. 153/H.A. 20/73/S.13/87 dated 30.12.1987 (Annexure P-2) which grants exemption from the payment of sales tax to the Khadi Ashram, Panipat and its centralised units functioning within the State of Haryana in exercise of the powers conferred by sub-section (1) of Section 13 of the Haryana General Sales Tax Act, 1973 (for short "the Act"), but

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limits the exemption to the other cooperative societies and persons to their

turnover no exceeding rupees five lakhs in a year. An earlier Notification dated 10.8.1973 (Annexure P-1) granting exemption to this extent by Annexure P-2. Annexure P-2 has been brought into force w.e.f. 1.1.1988. Thereafter, by Notification dated 14.9. 1992 brought into force w.e.f. 1.4.1992, the exemption limit of rupees five lakhs has been raised to rupees 30 lakhs. There is no grievance for the period subsequent to 1.4.1992. The only question, therefore, is : Whether the classification made between the Khadi Ashram, Panipat and its units and the other cooperative societies is discriminatory and violative of Article 14 of the Constitution of India?

The High Court has held that there is no discrimination inasmuch as the total exemption granted to the Khadi Ashram and its units while granting a limited exemption to others is a permissible and valid classification. Hence these appeals by special leave.

Shri G. Vishwantha Iyer, learned counsel for the appellants has reiterated the ground of discrimination to challenge the limit imposed in Annexure P-2 dated 30.12.1987 in respect of the other cooperative societies. However, learned counsel also submitted that the challenge now survives only in respect of appellant No. 2 M/s. Swastic Hand-made Papers production Cooperative Industries Societies Limited. Shri I.S. Goyal, in reply submitted that it is for the Government to determine whether a particular industry falls within the category to which exemption can be given under Section 13 of the Act and the object of promotion of Khadi envisaged by the directive principle in Article 43 of the Constitution permits such a classification placing the Khadi Ashram, Panipat and its units in the State of Haryana in a distinct class. He also submitted that it is significant that no challenge to this classification has been made by any other Khadi unit.

In the counter-affidavit of the State of Haryana, the distinguishing features of the Khadi Ashram, Panipat have been indicated it has also been stated that its accounts are duly audited whereas the other Khadi units which have not been granted the same degree of exemption do not have their activities monitored as effectively as the Khadi Ashram, Panipat in Haryana. Other distinguishing features to justify the classification have also been indicated in the counter-affidavit.

The principles for determining the validity of classification in taxing statutes are well settled and so also the limits of judicial review in testing the validity thereof on the touchstone of equality under Article 14. The test

- A applicable striking down a taxing provision on this ground is one of palpable arbitrariness in the context. It has also been held that a classification is permissible in a taxing statute of dealers on the basis of different turnovers for levying varying rates of sales tax. Adverting to the earlier decisions, this has been summarised in *Kerala Hotel and Restaurant Association and Others v. State of Kerala and Others*, [1990] 2 S.C.C. 502.
- B Thus, a classification made on the basis of turnover apart from the other distinguishing features of Khadi Ashram, Panipat and its units justifies putting them in a distinct class for the grant of total exemption from payment of sales tax particularly when there is no challenge by the other khadi units. It is unnecessary to examine any other aspect since the above reasoning alone is sufficient to justify the classification.
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The appeals are dismissed accordingly. No. costs.

A.G.

Appeals dismissed.