

Ram Bux Chaturbhuj & Anr vs State Of Rajasthan & Ors on 14 March, 1961

Bench: S.K. Das, J.L. Kapur, M. Hidayatullah, J.C. Shah

CASE NO. :

Writ Petition (civil) 10-11 of 1959

PETITIONER:

RAM BUX CHATURBHUI & ANR.

RESPONDENT:

STATE OF RAJASTHAN & ORS.

DATE OF JUDGMENT: 14/03/1961

BENCH:

S.K. DAS & J.L. KAPUR & M. HIDAYATULLAH & J.C. SHAH & T.L.V. AIYYAR

JUDGMENT:

JUDGMENT 1963 AIR (SC) 351 The Judgment was delivered by KAPUR, J.

These petitions under Article 32 are directed against the orders made by the Assistant Sales Tax Officer, Jodhpur, calling upon the petitioners in the two petitions to produce their accounts for the years 1955-56, 1956-57 and 1957-58 for the purpose of assessment to sales tax under section 10 of the Rajasthan Sales Tax Act, 1954 (Act XXIX of 1954), hereinafter referred to as the "Act". The petitioner in W.P. No. 10/59 Ram Bux Chaturbhuj and some other Pan (batel leaves) sellers filed a petition in the High Court of Rajasthan challenging the notice sent to them but that petition was dismissed by the High Court. They obtained a certificate for appealing to this Court and also obtained special leave to appeal to this Court but subsequently withdrew the appeal and filed the present petition, i.e., W.P. No. 10/59. But the petitioner in W.P. No. 11/59 states that he did not file any such petition. It is not necessary in this case to decide as to the effect of the judgment of the High Court because in our opinion these petitions are without any substance.

The main contention of the petitioners is that betel leaves are vegetables and are therefore exempt from taxation under the Act. Section 4 of the Act provides as follows :-

Section 4.

"(1) No tax shall be payable under this Act on the sale of any of the exempted goods if the conditions specified in column 3 of the schedule are satisfied.

(2) Where the State Government is of opinion that it is necessary or expedient in the public interest so to do, the State Government may, by notification in the Official Gazette, exempt from tax the sale of any goods or class of goods or any person or

class of persons on such conditions and on payment of such fee as may be specified in the notification."

Section 10 of the Act deals with assessment and Schedule 2 contains the articles on which no sales tax is payable under the Act. Item 2 of that Schedule is as follows :-

Conditions and exceptions S. No. Description of goods subject to which exemption is allowed.

----- 2. Fresh fruits, sugar-cane, Except (1) any medicine vegetables, onions and garlic, prepared from any one or vegetables and flower seeds, more of such articles and bulbous plants, excluding (2) when any such article orchids is sold in sealed containers.

The inclusion in this item of onions, garlic, etc. along with fresh fruits, sugar-cane and vegetables indicates the use of the word "vegetables" in its popular sense of vegetables grown in the kitchen garden for use for the table. Moreover this word "vegetables" is not defined in the Act and in W.P. No. 4 of 1958 (Since reported as Ramavatar Budhaiprasad v. The Assistant Sales Tax Officer, Akola and Another 1961 (12) STC 286), which has been decided today, it has been held that the word "vegetables" does not include Pan (betel leaves). Therefore betel leaves are taxable under the provisions of the Act.

It was next submitted that the notification dated April 1, 1958, which exempts betel leaves from the imposition of sales tax on the condition that the dealer holds a valid certificate or exemption on payment of Rs. 10 annual fee is an indirect method of levying the tax and is an imposition without the authority of law which contravenes Articles 14 and 19(1)(g) of the Constitution. This contention is equally without force because section 4(2) of the Act itself provides for conditional exemptions "on payment of such fee as may be specified in the notification". As said above betel leaves are not within the word "vegetables" and are therefore taxable. There is no discrimination between persons similarly placed. By making a distinction between persons selling betel leaves and those selling vegetables no infringement of Article 14 is established. As it is a valid fee it cannot be said that it is an infringement of Article 19(1)(g) of the Constitution. We therefore dismiss these petitions with costs. One hearing fee.