

Supreme Court of India

Industrial Minerals And Metals ... vs Sales Tax Officer And Anr. on 18 July, 1994

Equivalent citations: 1994 (3) SCALE 381, 1994 95 STC 99 b SC

Bench: K Singh, A Anand

ORDER

1. The appellants challenged the validity of Section 5(2)(A)(a)(ii) of the Orissa Sales Tax Act, 1947 (the OST Act) as amended by Section 2(c) of the Orissa Sales Tax (Amendment) Act, 1978 by way of a writ petition under Article 226 of the Constitution of India before these Orissa High Court. The order of the Sales Tax Officer, Cuttack III Circle pertaining to the assessment year 1982-83 was also sought to be quashed in the writ petition. The challenge to the validity of Section 5(2)(A)(a)(ii) of the OST Act was on the following grounds;

(i) that it is beyond the legislative competence of the State legislature to enact the provision since the tax relates to inter-State sale/export sale in respect of which the Parliament has the exclusive competence to legislate. In this connection reliance is placed on Article 286 of the Constitution and Entry 54 of List II of the Seventh Schedule of the Constitution;

(ii) that the provision is repugnant to Sections 3, 4 and 5 of the CST Act_ and hence it is hit by Article 254 and 269 of the Constitution;

(iii) that the levy of tax is discriminatory and therefore hit by Article 14 of the Constitution; and

(iv) that it affects the petitioners' right of freedom of trade and commerce embodied in Article 19(1)(g).

In addition to the above grounds it was also contended that while selling the goods in the course of inter State sale the appellants-petitioners did not contravene the declaration in as much as the sale took place within the State of Orissa and, as such, could not be exigible to tax under the OST Act but for the supervening-circumstance of the constitutional bar as provided under the Central Sales Tax Act. The High Court by its well reasoned judgment dated July 30, 1990 dismissed the writ petition. This appeal by way of special leave is against the judgment of the High Court.

2. We have been taken through the judgment of the High Court wherein all the points raised by the appellants-petitioners have been dealt with by giving detailed reasons in respect of each of the points. We see no ground to interfere with the judgment of the High Court. We agree with the reasoning and the conclusions reached therein.

3. We have today pronounced judgments in Civil Appeals Nos. 1811-15 (NT) of 1977 titled State of Orissa vs Minerals and Metals Trading Corporation of India Limited, and also in Civil Appeals Nos. 343-347 of 1987 titled Mis. Industrial Minerals & Metals and Anr. v. The Sales Tax Officer and Anr. Even on the force of the reasoning and conclusions in these judgments, this appeal has to be dismissed. We, therefore, dismiss the appeal with costs. We quantify the costs as Rs. 5000/-.