Supreme Court of India
Shaktikumar M. Sancheti vs State Of Maharashtra on 25 November, 1994
Equivalent citations: 1995 SCC (1) 351, JT 1994 (7) 718
Author: R Sahai
Bench: Sahai, R.M. (J)

PETITIONER:
SHAKTIKUMAR M. SANCHETI

Vs.

RESPONDENT:
STATE OF MAHARASHTRA

DATE OF JUDGMENT25/11/1994

BENCH:
SAHAI, R.M. (J)
BENCH:
SAHAI, R.M. (J)
KULDIP SINGH (J)
HANSARIA B.L. (J)

CITATION:
1995 SCC (1) 351 JT 1994 (7) 718
1994 SCALE (4)1099

ACT:

HEADNOTE:

JUDGMENT:

The Judgment of the Court was delivered by R.M. SAHAI, J.- These appeals are directed against judgment and order of the High Court of Bombay. The appellants are either contractors or dealers of motor vehicles who have purchased vehicles from outside the State and have brought them into the State of Maharashtra. They are aggrieved by levy of entry tax on such motor vehicles under Maharashtra Tax oil Entry of Motor Vehicles into Local Areas Act, 1987. They challenged it by way of writ petitions in the High Court. It was claimed that the levy was Colourable exercise of the legislative power of the State as Entry 52 of List II of Seventh Schedule of the Constitution of India did not permit imposition of such tax. It was also urged that the legislation impeded freedom of the appellants under Article 301 of the Constitution. Another ground of challenge was that the imposition was double burden on the appellants and in absence of any rational nexus between the levy of tax and the constitutional objective it was violative of Articles 14 and 286 of the Constitution of India. The High Court did not find any merit In any of these submissions and held that the

impugned Act was a valid piece of legislation as various entries in the Seventh Schedule were merely fields and not the powers of the legislation. It was held that the submission that the entry tax being leviable in the local area it could have been levied on movement of goods from one local area to another local area in the State only and not to more than one local area covering the entire State ",as devoid of any merit. The High Court did not find that the provision violated the constitutional guarantee under Article 301 or there was any double taxation involved in it.

2. In this Court the levy was challenged basically for two reasons-one, that the incidence of tax being on the purchase value of the motor vehicle it was in the nature of a purchase tax. Further local area having a connotation of its own and being understood as an area which was administered by a local authority, the tax on entry of the vehicle in the State as Such was bad for being vague and contrary to the concept of the local area as understood. It was also urged that it being in addition to the tax levied and collected as octroi by a Municipal Corporation or other local authorities was violative of Article 286 of the Constitution.

3. To comprehend the nature of levy it is necessary to extract the objects and reasons appended to the ordinance which brought out clearly the reason for the legislation:

> "From 1984 onwards some States and the Union Territories adjoining the State of Maharashtra have reduced the rate of sales tax on motor vehicles and chassis Substantially. Such reduction in tax rates by the neighbouring- States have resulted in diversion of trade to those areas and the manufacturers of motor vehicles in Maharashtra, for want of market, had to resort to branch transfers to these areas and cater to the needs of consumers in Maharashtra, from those areas. This resulted in the avoidable loss of legitimate sales tax revenue to a large extent by the State of Maharashtra. With a view to compensate such loss of legitimate revenue, the State Government has decided to levy with immediate effect to tax on entry of motor vehicles purchased outside the State and brought in the local areas of the State for use or sale."

A very perusal of these objects and reasons would indicate that this legislation was brought in order to avoid payment of the sales tax or purchase tax on the vehicle payable in the State by purchasing it in another State where the rate was lesser than the State of Maharashtra and then to bring the vehicle inside the State. The legislature, therefore, clearly intended to avoid any loss of legitimate sales tax revenue by the State. But the levy cannot be held to be bad because the legislature intended to avoid any loss of sales tax in the State so long it is not found to be invalid either because of any constitutional or statutory violation. It is not the intention or propriety of a legislation but it is legality or illegality which renders it valid or invalid. Section 3, the charging section is extracted below:

> "3. Incidence of tax.-(1) Subject to the provisions of this Act and rules made thereunder, there shall be levied and collected a tax on the purchase value of a motor vehicle, an entry of which is effected into a local area for use or sale therein and which is liable for registration in the State under the Motor Vehicles Act, 1939, at

such rate or rates as may be fixed by the State Government by notification in the Official Gazette by not exceeding the rates prescribed for motor vehicles in the Schedules appended to the Bombay Sales Tax Act, or fifteen paise in the rupee whichever is less:

Provided that, no tax shall be levied and collected in respect of a motor vehicle which was registered in any Union Territory or any other State under the Motor Vehicles Act, 1939 for a period of fifteen months or more before the date on which it is registered in the State under that Act.

(2) The tax shall be payable and paid by an importer within 15 days from the entry of motor vehicle into the local area or before an application is made for registration of the vehicle under the Motor Vehicles Act, 1988, whichever is earlier, in the manner laid down under Section 10 of this Act.

(3) The tax shall be in addition to the tax levied and collected as octroi by a Municipal Corporation, Municipal Council, Zilla Parishad, Panchayat Samiti or Village Panchayat or any other local authority, as the case may be, within its local areas."

This section is an illustration of the charge or incidence of tax and the measure of tax rolled in one. It creates liability on one hand for payment of tax on entry of any vehicle in a local area for use or sale therein and on the other that the amount of tax shall be on the purchase value of the vehicle. The latter part is what is commonly known as the machinery or procedural part pertaining to calculation and realisation of tax. The charge is on the entry of vehicle into a local area for use or sale and not on its purchase. The submission founded on the expression, "there shall be levied and collected a tax on the purchase value of a motor vehicle" proceeded thus on a misconception. Therefore, so long as the levy is on the entry of the vehicle into a local area for use or sale therein it cannot be said to be invalid merely because the measure of levy has been provided to be purchase value of the motor vehicle.

4. Shri Wad, the learned Senior Counsel vehemently urged that even assuming that the motor vehicles were brought into State for use or sale the tax could be levied only on the entry of vehicle into a local area. It was urged that the legislation in treating the entire State as local area has gone beyond the permissible limits carved out for it by the Constitution. The learned counsel urged that the power under Entry 52 of List II of Seventh Schedule is to tax goods-when it enters into a local area which was managed or administered by the local authority and not by the State. Reliance was placed on Diamond Sugar Mills Ltd. v. State of U. PI wherein the U.P. Sugarcane Cess Act, 1956 was held to be ultra vires as it empowered the imposition of a cess on the entry of sugarcane into the premises of a factory. What is, therefore, required to be examined is, how the word "local area" should be understood? In Diamond Sugar Mills1 the question whether entire area of the State was an area administered by State Government and was covered in the phrase "local area", was not decided. The expression "local area" has been used in various articles of the Constitution, namely, 3(b), 12, 245(1), 246, 277, 321, 323-A, and 37 1 -D. They indicate that the constitutional intention was to understand the "local area" in the sense of any area which is administered by a local body,

may be corporation, municipal board, district board etc. The High Court on this aspect held, and in our opinion rightly that the definition does not comprehend entire State as local area as the use of word 'a' before "local area" in the section is significant. The taxable event according to High Court, is not the entry of vehicle in any area of the State but in a local area. The High Court explained it by giving an illustration that if a motor vehicle was brought from Jabalpur (Madhya Pradesh) for being used or sold at Amravati (in Nagpur District of Maharashtra), which was the border area, taxable event was not the entry in Nagpur District but entry in area of Amravati Municipal Corporation. The levy, therefore, is not, as urged by the learned counsel for appellant, on entry of vehicle in any part of the State but in any local area in the State. It cannot, therefore, be struck down on this ground. (See State of Karnataka v. Hansa Corpn.2)

5. Feeble attempt was made to submit that the tax being in addition to octroi realised by the local body it amounted to double taxation. Tax levied 1 AIR 1961 SC 652 2 (1980) 4 SCC 697 : AIR 1981 SC 463 : (198 1) 1 SCR 823 under different legislations enacted in exercise of constitutional power are not rendered bad on assumption that it amounts to double taxation. The taxable event for entry tax is not same as for octroi. Nor it is by the same authority for the same purpose and for same period. (See Sri Krishna Das v. Town Area Committee, Chirgaon3.)

6. In the result the appeals and the writ petition fall and are dismissed. But there shall be no order as to costs.