

Decision Number: 10725

Decision Date: 2077/04/16 (2020-07-30)

Final Decision: सर्वोच्च अदालत, संयुक्त इजलास (Supreme Court, Joint Bench)

Pre-Decisions: N/A

Petitioner: शुभ सन्देश पोल्ट्रीफर्म एण्ड ह्याचरी (Shuva Sandesh Poultry Farm and Hatchery)
(प्रो. डिल्लीबहादुर डाँगीसमेत (Dilli Bahadur Dang, et al.))

Respondent: जिल्ला विकास समिति दाङ (District Development Committee, Dang) (समेत (et al.))

Key Words: उत्प्रेषण, कर, local self-governance act, poultry, tax

Key Points:

1. The District Development Committee (DDC) of Dang imposed an export tax on chickens, chicks, eggs, and chicken feed.
2. Poultry farmers in Dang challenged the legality of the tax.
3. The Supreme Court ruled that the tax was illegal as these items are not subject to taxation under the Local Self-Governance Act.
4. The court issued a writ of certiorari, quashing the DDC's decision, and a writ of prohibition, preventing the DDC from imposing the tax on these items.

Facts of the Case

The petitioners, who are poultry farmers, claimed that the DDC's decision to impose this tax was illegal and detrimental to their businesses. They argued that these items were not subject to taxation under the Local Self-Governance Act, 2055 B.S.

Petitioner's Contention

The petitioners contended that the imposition of the export tax on poultry products by the DDC was unlawful because these items are not listed as taxable goods under the Local Self-Governance Act and its associated regulations. They claimed that the DDC's decision violated their rights and would negatively impact their businesses.

Respondent's Contention

The DDC argued that it had the authority to impose the tax under the Local Self-Governance Act, 2055 B.S., and its regulations. They stated that the tax was imposed based on the decision of the District Council and in consultation with the Revenue Advisory Committee. The DDC also argued that the tax was necessary for local development and that not collecting it would affect various development projects in the district. The DDC further contended that the tax on poultry was justified under the provision for taxing "birds' feathers."

Legal Issues

1. Whether the District Development Committee (DDC) had the legal authority to impose an export tax on chickens, chicks, eggs, and chicken feed under the Local Self-Governance Act, 2055 B.S., and its regulations.
2. Whether the DDC followed the due process and procedures required by law in imposing the tax, including consultations with relevant stakeholders.
3. Whether the imposition of the tax violated the petitioners' rights and negatively impacted their businesses.

Judgment

The Supreme Court upheld the decision of the appellate court, ruling that the DDC's decision to impose the export tax on chickens, chicks, eggs, and chicken feed was illegal. The Court found that these items were not subject to taxation under the Local Self-Governance Act and its regulations. The Court issued a writ of certiorari, quashing the DDC's decision, and a writ

of prohibition, preventing the DDC from imposing the tax on these items. The court reasoned that while the DDC had the right to impose taxes, there were some limits and procedures defined by the law.

Significance

The decision clarifies the scope of the taxing authority of local bodies under the Local Self-Governance Act, 2055 B.S., and emphasizes the need for these bodies to comply with the due process and procedures required by law when imposing taxes. The case reinforces the principle that taxes cannot be imposed without clear legal authority and adherence to prescribed procedures.

Source:

NKP, 2078, District Development Committee, Dang v. Shuva Sandesh Poultry Farm and Hatchery (Decision No. 10725, Decided on 2077/04/16 B.S.);

https://nkp.gov.np/full_detail/10725

Value Added Tax Act, 2052 B.S.,

<https://www.lawcommission.gov.np/en/archives/category/value-added-tax-act-2052-1996>

Generated on: June 10, 2025