
Ram Bux Chaturbhuj and Munna Lal Vs The State of Rajasthan and Others

Petitions No"s. 10 and 11 of 1959

Court: Supreme Court of India

Date of Decision: March 14, 1961

Acts Referred:

Constitution of India, 1950 – Article 14, 19(1), 32#Rajasthan Sales Tax Act, 1954 – Section 10, 4, 4(1), 4(2)

Citation: AIR 1963 SC 351

Hon'ble Judges: T.L. Venkatarama Aiyar, J; S.K. Das, J; M. Hidayatullah, J; J.L. Kapur, J; J.C. Shah, J

Bench: Full Bench

Advocate: N.C. Chatterjee and D.N. Mukherjee, for the Appellant; G.C. Kasliwal, Advocate-General, S.K. Kapur and D. Gupta, for the Respondent

Final Decision: Dismissed

Judgement

J.L. 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 account for the years 1955-56, 1956-57 and 1957-58 for the purpose of assessment to

sales tax u/s 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 (betel 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.

2. 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:-

S. NO. Description of Goods Conditions and exceptions

subject to which exception is

allowed.

2. Fresh fruits, sugarcane, Ex (1) any medicine prepared

vegetable , onions and garlic, from any one or more of such

vegetable and flowerseeds, articles and (2) when any such

bulbous plants, excluding article is sold in sealed

orchids containers.

The inclusion in this item of onions, garlic, etc. along with fresh fruits, sugarcane 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

274142 , 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.

3. 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 of 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 exemption ""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.

4. We therefore dismiss these petitions with costs. One hearing fee.