

(1997) 07 SC CK 0164

Supreme Court of India

Case No: Civil Appeals No. 6095 Of 1990 With Nos. 6053 Of 1990, 1902 Of 1991, 6054 Of 1990, 1034 Of 1991, 6183 Of 1990 And 8097 Of 1995

Calcutta Oil Industries and
Another

APPELLANT

Vs

Commercial Tax Officer and
Others

RESPONDENT

Date of Decision: July 23, 1997

Acts Referred:

- Bengal Finance (Sales Tax) Act, 1941 - Section 6B(2)(e)

Citation: (1997) 9 JT 704 : (1997) 11 SCC 558

Hon'ble Judges: V. N. Khare, J; S. P. Bharucha, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

1. The appellants challenged the deletion of Section 88(2)(a) of the Bengal Finance (Sales Tax) Act, 1941 by writ petitions which were transferred to and decided by the West Bengal Taxation Tribunal by the judgment and order under appeal. During the course of the argument before the Tribunal the challenge was restricted to the retrospective operation of the amendment. The Tribunal rejected the challenge that the retrospective amendment was arbitrary and unreasonable because it found that the amendment did not seek to impose a new tax but merely clarified the position that sales effected by eligible certificate holders did not come within the meaning of sales which were "generally exempt". The benefit of the exemption that was available to them was conditional and the amendment did no more than clarify the position.

2. Having heard counsel and read the judgment under appeal, we are satisfied that the respondents made out cogent case for making the amendment retrospective.

Once that is held, the retrospective amendment cannot be said to be arbitrary or unreasonable, and whether the Tribunal accepted the explanation as being clarificatory or otherwise is of no consequence.

3. In the result, the appeals are dismissed, with no order as to costs.