(1971) 02 AP CK 0009

In the Andhra Pradesh High Court

Case No : T.R.C. No''s. 38 and 39 of 1968 and 2 and 3 of 1969

Govindaswamy Binding Works and Others — APPELLANT

Vs

The State of Andhra Pradesh — RESPONDENT

Date of Decision : 02-02-1971

Acts Referred:
Andhra Pradesh General Sales Tax Act, 1957 — Section 9(1)

Citation : (1972) 29 STC 219

Hon'ble Judges : Venkateswara Rao, J;Obul Reddi, J

Bench : Division Bench

Advocate : T. Ramam and T. Anantha Babu, for the Appellant; Seshavataram, Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

Obul Reddi, J.—These four tax revision cases may conveniently be disposed of by a common order, as the only question involved relates to the interpretation of the words "all books and periodicals" which were exempted from payment of tax with effect from 1st April, 1964, under a notification issued by the Government in exercise of the powers conferred upon it by Sub-section (1) of Section 9 of the Andhra Pradesh General Sales Tax Act, 1957 (hereinafter referred to as "the Act").

2. It is not necessary for the disposal of these petitions to state the facts in each of the cases, as the facts in all the revision cases are similar and it would be sufficient if the facts in T. R. C. No. 38 of 1968 are set out. The petitioner, like the other petitioners in the other revision cases, is a dealer in account books, note-books etc. His turnover relating to sales of these books was Rs. 1,94,731.52 and he sought exemption for the entire turnover, relying upon the notification in G. O. Ms. No. 133, Revenue, dated 29th January, 1964, issued u/s 9(1) of the Act. His claim for exemption, as also the claim for exemption by the other petitioners, was rejected by the assessing authority, on appeal by the Assistant Commissioner and on further appeal by the Sales Tax Appellate

Tribunal, with the result the petitioners have filed these petitions u/s 22(1) of the Act.

3. Mr. Anantha Babu, the learned counsel appearing for the petitioners, contended that the authorities below have failed to construe the words "all books and periodicals" occurring in the notification by not giving them the ordinary meaning as popularly understood which takes in books of the kind sold by the petitioners and any other interpretation given or construction to be put on the words would not only defeat the intention of the Government in granting exemption, but would also result in the court substituting its own meaning to what the words actually convey or mean. To appreciate the point raised by the learned counsel, we may first refer to the notification which is as follows :

(G. O. Ms. No. 133, Revenue, dated 29th January, 1964.)

4. In exercise of the powers conferred by Sub-section (1) of Section 9 of the Andhra Pradesh General Sales Tax Act, 1957 (Andhra Pradesh Act 6 of 1957), the Governor of Andhra Pradesh hereby exempts from the tax payable under the said Act the sales of all books and periodicals with effect from the 1st April, 1964.

5. Prior to this notification, there was another notification exempting only certain kinds or categories of books from payment of sales tax. They were Government of India publications, stationery books etc., supplied by the stationery department of the State Government to the other Government departments and books published by Universities, Scriptures of the Foreign Bible Society, Quran, books on religion, Puranic and Vedic Literature with or without commentaries and books on theosophy sold by dealers exclusively in such books. An explanation was also added to this earlier notification that a person shall be deemed to be dealing exclusively in books mentioned in that item if he deals only in those books detailed and does not deal in books of any other kind. Mr. Anantha Babu invited our attention to this earlier notification to press his point that while the earlier notification specified the kind or categories of books which were exempted from tax, the subsequent notification with which we are now concerned, exempted without reference to any particular kind or category of publications or books "all books and periodicals", so that whoever may deal in any kind or category of books may get the benefit of the exemption. This exemption granted to "all books and periodicals" is not now available and it is limited only to school and college text-books as may be seen from item 11 of Schedule IV as it stands after the Amendment Act 5 of 1968.

6. The Government Pleader sought to rely upon a decision of the Allahabad High Court in Industrial and Commercial Service Vs. Commissioner of Sales Tax, U.P., to show that the word "books" is not used in any wider sense but in a limited and restricted sense so as to apply only to books which are used for reading and not to account books, note-books and other types of books. The intention of the Government in granting exemption to books could be gathered only from the language used by it in the notification. It is not a case where the Government

sought to restrict the meaning of the word "books" only to books containing reading material, in the sense, literary works. That is obvious from the fact that in the prior notification, it enumerated the categories of books which were exempted from tax. Not only the Government gave a list of such books which were exempted from tax on their sales, but also added an explanation while dealing with one of the items, viz., Scriptures, current books on religion etc. Under that notification, only the turnover relating to sale of such specified books alone was exempt from tax. There is no such restriction in the present notification as was imposed in the previous notification. There is nothing in the language of the notification that exemption will not be granted if a dealer deals in other kinds of books which are not of literary type. The notification refers to "all books and periodicals". The word "all" preceding the word "books" has the significance of including the books in their entirety within the purview of the notification. The word '''all" as defined in Chambers''s Twentieth Century Dictionary means "whole : as much as there is : as many as there are : to the whole extent or number : without exception : the greatest possible : every-n. the whole : everybody : everything : the totality of things-the universe : one''s whole possessions." The word "book" as defined in the same dictionary means "a collection of sheets of paper, etc., bound together or made into a roll, either printed, written on, or blank: a large-scale literary composition: a division of a volume or composition : the Bible: any source of instruction : the first six tricks gained by a side in whist: a structure resembling a book : (pl.) formal accounts of transactions, as minutes of meetings, records kept of a business." Reading together the words, it is clear that the expression "all books" applies to every kind or category of books either printed, written or blank. Webster''s Third New International Dictionary (Unabridged) 1966, defines the word "book" as "a collection of written, printed or blank sheets fastened together along one edge and usually trimmed at the other edges to form a single series of uniform leaves : specifically a collection of folded sheets bearing printing or writing that have been cut and sewn and usually bound between covers into a volume: a stack of sheets of paper interleaved alternatively with the material whose finish the paper acquires after it passes through the plater : the printed but unfolded and uncut sheets for a book : a long systematic literary composition: a major division of a treatise or literary work : any of the records (as -the day-book, cash book, sales book, journal, ledger) in which a systematic record of business transactions may be kept " It is thus clear in common parlance, that the expression "all books" would include day-books, account books, ledgers, journals and even blank sheets fastened together and they need not necessarily be literary works. There is absolutely no ambiguity in the expression "all books" and the intention of tile Government is manifest that it intended to exempt every kind of books as understood in common parlance including account books, exercise note-books and the kind, as otherwise, there was no need for them to issue the notification in question superseding the prior notification which exempted only particular categories or kinds of books.

7. In Edwards v. Edwards [1876] 2 Ch. D. 291, it was observed by Mellish, L.J.:

If the Legislature says, that a deed shall be ''null and void to all intents and purposes whatsoever/how can a Court of Equity say that in certain circumstances it shall be valid?....If the Act had said, ''shall be void at law and in equity/ the question could not have been raised, and what it has said comes to the same thing.

8. So, when the Government in its notification in exercise of the powers delegated to it by the Legislature uses the words "all books", it is not for the court to say that it was not the intention of the Government to include all kinds of books and the words were used in a restricted sense so as to exclude the books of the kind with which we are concerned here.

9. In Stewart v. Thames Conservators [1908] 1 K.B. 893, it was stated by Bray, J.:

Now it has been laid down quite clearly that, where an Act of Parliament contains an exemption from all parliamentary rates and taxes, that means, in the absence of any special words, rates and taxes existing at the time when the Act in question was passed, and the exemption does not extend to any rates or taxes subsequently imposed. But it was decided in Williams v. Pritchard 4 T.R. 2 that the land tax, though renewed annually, was nevertheless to be regarded for this purpose as an existing tax. In that case Lord Kenyon said : ''So here, though (strictly speaking) the land tax is an annual statute, and the words of the Land Tax Act, which was passed in the twenty-seventh year of this reign, are general and sufficiently large to subject these lands to the payment of the tax in question....I am of opinion that, for the purpose of the exemption in s. 289, the income tax must be regarded as an existing tax just as the land was in Williams v. Pritchard2, and, therefore, the expression ''all parliamentary rates, taxes, &c.'' in s. 289 applies to the income tax, not only for the year 1894, but for subsequent years also.

10. In that case the claim made was for exemption from payment of income tax for the years 1905 and 1906 in respect of the properties within Section 289 of the Thames Conservancy Act, 1894, which provided that notwithstanding anything in any Act, the properties therein mentioned shall be exempt from all parliamentary rates, taxes and payments whatsoever. That claim was disputed by the Surveyor of Taxes contending that income tax being an annual tax, the income tax for the years 1905 and 1906 was not a tax existing at the date of the passing of the Thames Conservancy Act, 1894, and that the respondents were, therefore, not entitled to the exemption claimed. The defence was negatived by observing that the exemption claimed was applicable not only in respect of that particular year, but also for the subsequent years by reason of the language used "exempt from all parliamentary rates, taxes and payments whatsoever.

11. The observations of the House of Lords in Attorney-General v. Milne [1914] A.C. 765 may also be usefully noticed :

It may be that, if probabilities, apart from the words used, are to be looked at, there is, on the construction which the Court of Appeal have put on the statute, a casus omissus which the Legislature was unlikely to have contemplated. But, my Lords, all we are permitted to look at is the language used. If it has a natural meaning, we cannot depart from that meaning unless, reading the statute as a whole, the context directs us to do so. Speculation as to a different construction having been contemplated by those who framed the Act is inadmissible, above all in a statute which imposes taxation.

12. Considering the word "vegetables" in Ramavatar Budhaiprasad Etc. Vs. Assistant Sales Tax Officer, Akola, their Lordships of the Supreme Court observed that the word "vegetables" must be construed not in any technical sense nor from the botanical point of view but as understood in common parlance. The expression "all books" would therefore include any kind of books, including account books, note-books, loose sheets of paper fastened together and they need not be literary works or books of the kind specified in its prior notification by the Government. The words "all books" are not technical words. They are plain and simple words understood in common parlance as taking within their range every possible kind of book. It is a well-established rule of interpretation to take the words as they stand and interpret them in a manner conveniently or ordinarily understood. The substantial change made in the matter of exempting tax will also show that the change was intended to take in its ambit all kinds of books without having to take the trouble of listing out the various kinds or categories of books. We cannot do better than to quote what Rowlatt, J., has said in Cape Brandy Syndicate v. Inland Revenue Commissioners [1921] 1 K.B. 64:

In a taxing Act one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used.

13. The expression "book" itself is comprehensive enough to take in all kinds of books and the word "all" will make it abundantly manifest and plain that, the notification was issued to cover all cases of sales of books and is riot restricted in its application to books of literary material or other kinds of reading material. The Allahabad case, Industrial and Commercial Service Vs. Commissioner of Sales Tax, U.P., therefore renders no assistance to the contention of the Government Pleader.

14. In the result, we set aside the order of assessment in these four cases and allow the revisions ; but in the circumstances, without costs. Advocate''s fee Rs. 100 in each.

