(1971) 10 SC CK 0050

In the Supreme Court Of India

Case No : Civil Appeals Nos. 1339 Of 1969 And 1422 Of 1971

K. Iswara Wariyyar APPELLANT

Vs

Union of India (UOI) RESPONDENT

Date of Decision : 05-10-1971

Acts Referred:

Citation : (1972) 4 SCC 502

Hon'ble Judges : K. S. Hegde, J;A. N. Grover, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

K.S. HEGDE, J.-This is an appeal by special leave. It is directed against the decision of the Allahabad High Court in a writ petition under Article 226 of the Constitution. The petitioner was assessed to tax under the U.P. Sales Tax Act sometime in 1949 in respect of the Assessment Years 1948-49 and 1949-50. He did not go up in appeal against those orders. He accepted the orders of assessment and in compliance thereof, he paid the tax payable under those orders.

2. On January 24, 1956, he filed the writ petition which has given rise to this appeal. Therein, he challenged the validity of the tax imposed on him. He further prayed for an order directing the State of U.P. to refund the tax collected from him. The learned Single Judge, before whom the writ petition came, dismissed the same on three grounds viz. (1) the orders impugned were made prior to January 26, 1950, and hence their validity cannot be challenged under Article 226 of the Constitution; (2) even according to the petitioner, there was an adequate alternative remedy and hence he should not be permitted to invoke the extraordinary jurisdiction of the High Court; and (3) the petitioner was guilty of laches and hence he is not entitled to invoke the jurisdiction of the High Court under Article 226 of the Constitution.

3. We do not think that in this case it is necessary for us to consider whether

Article 226 can be used for challenging the validity of the orders passed prior to January 26, 1950. But we are in agreement with the High Court on the other two grounds. As mentioned earlier, the impugned assessments were made in 1949. The writ petition was filed in 1956. The explanation given by the petitioner for this long delay is that he did not know the correct legal position and he came to know about the same after the decision of the Allahabad High Court in the Commissioner of Sales Tax, U.P. v. Modi Food Products Ltd.1. Every individual is deemed to know the law of the land. The courts merely interpret the law and do not make law. Ignorance of law is not an excuse for not taking appropriate steps within limitation. Therefore the argument that the appellant did not know the true legal position is not one that can be accepted in law. That apart, even after the High Court rendered its decision in Modi Food Products'' case1 the petitioner did not move the High Court for over several months. There is no satisfactory explanation for that delay. That being so, the High Court was fully justified in refusing to exercise its discretion under Article 226 of the Constitution in favour of the appellant.

4. We also agree with the High Court that the petitioner had an adequate alternative remedy by way of going up in appeal against the impugned orders. He having failed to do so, cannot be permitted to invoke the extraordinary jurisdiction of the High Court under Article 226 of the Constitution. In this connection, we may also note that if the petitioner had instituted a suit for refund of the tax, the same would have been by limitation.

5. In the result, this appeal fails, but taking into consideration the fact that the tax collected from him is prima facie an unlawful collection, we make no order as to costs.

