

(1997) 08 KAR CK 0044

In the Karnataka High Court

Case No : Writ Petition Nos. 19323 to 19333 of 1990

K. Prakash Basri and Others

APPELLANT

Vs

State of Karnataka and Another

RESPONDENT

Date of Decision : 26-08-1997

Acts Referred:

Constitution of India, 1950 — Article 14

Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976 — Section 3(2)

Citation : (1998) 44 KarLJ 6

Hon'ble Judges : Tirath Singh Thakur, J

Judgement

1. The petitioners are Chartered Accountants all of whom practising in and around Mangalore. Having put in more than 5 years in the profession they are in terms of the provisions of the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976, liable to pay Profession tax at the rate of Rs. 2,000/- p.a. revised with effect from 1-4-1992 to Rs. 2,200/- p.a. per person. The amount earlier prescribed by the Act being Rs. 250/- p.a. only the petitioners have filed these writ petitions assailing the enhancement as illegal and arbitrary.

2. Counsel for the petitioners made but a solitary submission in support of the petitions. He urged that the enhancement of the tax from Rs. 250/- to Rs. 2,000/- p.a, was not only arbitrary and excessive, but singled out the Chartered Accountants as a class for a hostile treatment. In the case of other trades, professions and callings, argued the learned Counsel the tax was not revised proportionately and was limited to Rs. 500/- p.a. The disproportionate enhancement, which does not apply uniformly to other professionals, it was contended amounted to a hostile discrimination against Chartered Accountants and fell foul of Article 14 of the Constitution.

3. In matters relating to taxation, the Legislature enjoys considerable latitude in not only choosing the subjects, the method of levy and collection of the tax but even in regard to prescribing the rate of such taxes. While fiscal laws enacted by the Legislature are not entirely immune from a challenge based on Article 14,

Courts are slow in interfering with the classification made having regard to the inherently difficult task of making such classification to perfection. The Legislature is presumed to be supremely wise and aware of the needs of the society and the fiscal compulsions of the time. Its discriminations are presumed to be for reasons that are good unless the contrary is shown. A heavy burden is cast on any one questioning any such classification methods or rates prescribed in a fiscal statute enacted by the competent Legislature. As to what should be the rate of tax, or the extent of the burden that should fall on the subject is primarily a legislative function with which the Courts do not meddle except in situations where the effect of such legislations may be so patently discriminatory that it becomes difficult to uphold the same. See *S.K. Dutta, Income-tax Officer, Salary-cum-S.I.B. Circle, Assam and Others v Lawrence Singh Ingty*, AIR 1968 SC 658, *Ellel Hotels and Investments Limited and Another v Union of India*, AIR 1990 SC 1664, *Sri Srinivasa Theatre and Others v Government of Tamil Nadu and Others*, AIR 1992 SC 999 and *R.K. Garg v Union of India and Others*, AIR 1981 SC 2138.

4. When seen thus, the decision of the legislature to enhance the tax payable by the Chartered Accountants with more than 5 years experience, in the profession from Rs. 250/- p.a. to Rs.2,000/- p.a., as also the further enhancement to Rs. 2,200/- p.a. cannot be interfered with just because the said enhancement was not accompanied by a similar enhancement in respect of other professions. It is fairly well settled that the Legislature need not tax everything in order to tax something. So also the Legislature need not enhance the tax payable by professionals belonging to all the professions, in order that it may enhance the tax payable by those belonging to any particular profession. We can also not ignore the fact that no two professions can be said to be similarly circumstanced so as to call for a treatment which may be exactly similar, in matters relating to taxation. In the case of Chartered Accountants, the potential of the profession and the capacity of the professional to yield higher professional returns appears to have influenced the enhancement in question. The social strata to which the Chartered Accountants lend their professional services marks them out as a distinct category not easily comparable with other professions. These considerations could not be said to be wholly irrelevant in matters relating to imposition of taxes. A near similar challenge was in fact repelled by a Single Judge of this Court in *Indian Medical Association and Another v State of Karnataka and Another*, 1997(42) Kar. L.J. 48. In that case the petitioners had questioned the validity of Item 2-C of the Schedule to the Act, which pertains to the rate of tax in respect of medical practitioners. Repelling the challenge this Court held that Article 14 of the Constitution did not prohibit reasonable classification and so long as the legislature had reasonably classified persons and dealt with all such persons belonging to a particular defined class, equally any such classification could not be challenged on the ground of denial of equal protection. Chartered Accountants, are a class distinct from other professionals whether it is Medicine or law. Just because the tax structure applicable to other

professions did not experience a similar enhancement would not therefore be sufficient to declare the enhancement qua Chartered Accountants to be arbitrary or discriminatory. The enhancement it is not disputed applied uniformly to all Chartered Accountants who have completed 5 years or more in the profession. The Legislature has not thus made any discrimination among persons who fall within the class carved out by it. The object of a tax is not only to raise revenues but also to regulate the economical life of the Society. A legislative classification making the burden of tax heavier in proportion to the increase in turn over was held to be reasonable by the Apex Court *M/s. S. Kodar v State of Kerala*, AIR 1974 SC 2272. Reference may also be made to *M/s. Hoechst Pharmaceuticals Limited and Others v State of Bihar and Others*, (1983)4 SCC 45, where A.P. Sen, J., speaking for the Court observed that on questions of economic regulations and related matters the Court must defer to the legislative judgment. When the power to tax exists the extent of the burden is a matter for discretion of the Law makers. It is not the function of the Court to consider the propriety or the justness of the tax or enter upon the realm of legislative policy. The equality clause in Article 14, declared the Court did not take away from the State the power to classify a class of persons who must bear the heavier burden of tax; and that the classification having some reasonable basis does not offend against the clause merely because it is not made with mathematical nicety or because in practice it results in some inequalities.

5. Applying the principles stated in the above decisions, it is difficult to hold that the enhancement of tax payable by Chartered Accountants discriminatory simply because, the Legislature has not while doing so, correspondingly enhanced the tax payable by those carrying on other trades, callings and professions. There is no merit in these petitions which fail and are dismissed but without any orders as to costs.