(1998) 09 KAR CK 0049

In the Karnataka High Court

Case No : Writ Petition No. 29589 of 1996 connected with Writ Petition Nos. 24547 and 24548 of 1996

K.C. Das Private Limited, Bangalore and Others APPELLANT

Vs

State of Karnataka and Others RESPONDENT

Date of Decision : 24-09-1998

Acts Referred:

Karnataka Sales Tax Act, 1957 — Section 6B(1)

Citation : (1999) 46 KarLJ 210

Hon'ble Judges : V. K. Singhal, J

Judgement

1. The validity of clause (xiii) of Section 6-B(1) of the Karnataka Sales Tax Act and the notification dated 31-3-1995 have been challenged in these petitions.

The provisions of clause (xiii) of Section 6-B(1) are as under:

"6-B(1) proviso (xiii).-Aggregate turnover in all goods not exceeding ten lakh rupees shall be computed from the first day of commencement of business during any year of a dealer (other than a body corporate) whose total turnover in a year is not less than ten lakh rupees but is less than two hundred lakh rupees".

The notification dated 31-3-1995 issued under Section 8-A with effect from 1-4-1996, reads as under:

"In exercise of the power conferred under Section 8-A of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), the Government of Karnataka hereby reduces with effect from the First day of April, 1995 the rate of tax payable under Section 6-B of the said Act by a dealer (other than a Body Corporate) whose total turnover in a year is less than five hundred lakh rupees, on such turnover in the total turnovers of two hundred lakh rupees computed from the date of commencement of business during the year to 1.25 per cent".

2. Learned Counsel for the petitioner submitted that there is no basis for classifying the Body Corporate differently and there is no nexus to the object sought to be achieved by law. It is submitted that the notification discriminates

''Body Corporates'' from other dealers.

3. Arguments of both the learned Counsel for the parties have been heard. While considering the discrimination it has to be seen whether the power has been exercised arbitrarily or the discrimination is such that it could be considered to be unreasonable. In this regard various decisions of the Apex Court were considered in the case of Tirupati Steels, Hubli v State of Karnataka, 1999(46) Kar. L.J. 57. It may be observed that the bodies corporate constitute a class by themselves and if the legislature consider that the burden of tax should be more on them, then the legislature is competent to do so. In case of Banashankary Leasing Company Limited v State of Karnataka, 1989(3) Kar. L.J. 562, while challenging the provisions of Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976, it was observed by the Apex Court that the classification is a reasonable one.

In these circumstances, I do not feel that any case is made out to consider the provisions of the Act or the notification issued thereunder as ultra vires to Article 14 of the Constitution of India.

Writ petitions are dismissed.

