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(1987) 09 AP CK 0009

In the Andhra Pradesh High Court

Case No : Writ Petition No''s. 3396, 4642 and 4645 of 1982

Mcdowell and Co. Limited — APPELLANT

Vs

Commercial Tax Officer — RESPONDENT

Date of Decision : 02-09-1987

Acts Referred:
Andhra Pradesh General Sales Tax (Amendment) Act, 1985 — Section 24, 4

Citation : (1988) 68 STC 124

Hon'ble Judges : B.P. Jeevan Reddy, J;A. Lakshmana Rao, J

Bench : Division Bench

Advocate : P. Srinivasa Reddy, for S. Dasaratharama Reddi, for the Appellant; The Government Pleader for Commercial Taxes, for the Respondent

Judgement

B.P. Jeevan Reddy, J.—A common point arises in these three writ petitions. So they are disposed of by a common order. We shall deal with the facts in W.P. No. 3396 of 1982.

2. In this writ petition the validity of a notice dated 30th April, 1982 issued by the first respondent, Commercial Tax Officer (Intelligence) No. III, is challenged. Prior to the impugned notice, the first respondent had issued a notice dated 27th April, 1982 calling upon the petitioner to produce certain documents and supply certain information. Under the impugned notice the first respondent stated that in pursuance of the earlier notice the petitioner has furnished only some of the details asked for and that he has not furnished the remaining details. He therefore called upon the petitioner to appear before him on a particular date along with the documents specified in the notice. The petitioner was further informed under the impugned notice that the assessment for the year 1981-82 will be completed disallowing the exemptions claimed if they fail to produce the proof in respect of the exemptions claimed by them during the year 1981-82.

3. It may be noted that ten Commercial Tax Officers (Intelligence) were conferred with certain powers under certain notifications issued by the Government over the entire State. In other words these ten officers along with

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certain other officers had concurrent jurisdiction all over the State. The validity of the notifications conferring such powers was questioned in Sri Balaji Rice Company Vs. Commercial Tax Officer No. I, Nellore and Others, and a Bench of this Court struck down the said notifications. So far as the present writ petition is concerned, it is sufficient to notice two points decided by the Bench, (1) conferment of power upon certain officers over the entire State is inconsistent with section 4 which contemplates conferment of power on such officers with respect to a local, i.e., smaller area, and (2) conferring concurrent jurisdiction on several officers in respect of the same area is likely to result in discriminatory consequences and hence it is violative of article 14. The said judgment was rendered on 8th April, 1983. Thereafter the Andhra Pradesh Legislature enacted the Andhra Pradesh General Sales Tax (Amendment) Act (18 of 1985) by which section 4 was amended to remove the first defect mentioned above. But no provision was made in the Amendment Act to remove or rectify the second defect mentioned above.

4. It is stated by the learned Government Pleader that the Government has since issued a notification delimiting the jurisdictional areas of these officers and their jurisdiction is confined to certain specified areas. He points out that the concurrent jurisdiction is no longer in force now. May be so, but even this would not validate the impugned notice because the notification delimiting the areas of jurisdiction cannot have retrospective effect and would not therefore retrospectively validate the impugned notice. For the above reasons and following the said Bench decision, we quash the impugned notice. The writ petition is accordingly allowed. Therefore shall be no order as to costs.

5. It is obvious that this order does not preclude the Commercial Tax Officer having ordinary jurisdiction over the area concerned to take fresh proceedings according to law against the petitioner. Section 24-A of the Act is relevant in this behalf.

6. The writ petitions are allowed accordingly. There shall be no order as to costs. Advocate''s fee Rs. 150 in each.

Writ petitions allowed.

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