(1956) 05 P&H CK 0005

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ No. 389 of 1955

Mulji Bhai Mathur Bhai and Sons APPELLANT

Vs

The State and Others RESPONDENT

Date of Decision : 17-05-1956

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (1956) 7 STC 773

Hon'ble Judges : Khosla, J

Bench : Single Bench

Advocate : M.C. Sud, for the Appellant; S.M. Sikri, Advocate-General, for the Respondent

Final Decision : Dismissed

Judgement

Khosla, J.—This is a petition under Article 226 of the Constitution The petitioner is a firm dealing in tobacco. Before the passing of the Tobacco Vend Fees Act the petitioners held a certificate of registration under the Punjab General Sales lax Ad; for the sale of manufactured tobacco. With the coming into force of the Tobacco Vend Fees Act the petitioners held a certificate of registration under the Punjab General Sales Tax Act for the sale of manufactured tobacco. With the coming into force of the tobacco Vend Fees Act the petitioners made an enquiry whether they were liable to pay tax under the General Sales Tax Act. They were informed in the beginning of September 1954, that no sales tax was payable in respect of sales of manufactured tobacco during the year, 1954-55, The petitioners were also informed that they would be required to take out a tobacco dealer''s licence under the New Punjab Tobacco Vend Fees Act.

2. Manufactured tobacco figured in the Schedule to the Punjab General Sales lax Act and was therefore liable to sales tax. On the 27th September, 1954, a, notification was issued by the Punjab Government deleting manufactured tobacco from the Schedule. So after 27th September, 1954, no the sales tax was payable on the sale of manufactured tobacco.

3. The question now arose what was the position between 1st April, 1954, and 27th September, 1954. No. rules had been framed under the Punjab Tobacco Vend Fees Act and so no licences were issued. The Punjab Government decided that since manufactured tobacco figured in the Schedule of the Punjab Sales Tax Act and the Tobacco Vend Fees Act did not have the effect of repealing this Schedule, all vendors of manufactured tobacco were liable to pay sales tax on sales effected up to 27th September, 1954.

4. The Punjab Government thereupon directed the petitioners to file their returns of sales from 1st April, 1954, to 26th September, 1954. In the present petition the petitioners challenge this action of the Punjab Government.

5. From the facts given above it is quite clear that the action taken by the Punjab Government is perfectly legal and in accordance with the two statutes. The Punjab Tobacco Vend Fees Act did not repeal the Punjab Sales Tax Act, in so far as it related to sales of manufactured tobacco. The Punjab Tobacco Vend Fees Act did not provide for the levy of a sales tax on manufactured tobacco. It provided for the issue of licences to dealers in manufactured tobacco. The scopes of the two Acts were entirely different although the object of both was to collect revenue for the State. The revenue, however, was to be collected in different ways and on wholly different principles. The two Acts therefore could co-exist bat the Government decided to remove manufactured tobacco from the scope of the General Sales Tax Act. For the intervening period 1st April, 1954, to 26th September, 1954, sales tax was to be paid and the petitioners were directed to file their accounts.

6. Learned counsel for the petitioners contended that the Punjab Government notified the petitioners that no sales tax would be levied. This information was, however, given in September, 1954, and there was no scope for any misunderstanding. The petitioners were not called upon to take out a licence during the year 1954-55. A licence for the sale of tobacco was issued to them for the year 1955-56 on payment of the necessary licence fee.

7. The petitioners therefore have no grievance of any kind. The Punjab Government has acted entirely in accordance with law and no hardship has been caused to the petitioners. I therefore dismiss this petition with costs.

