

(1989) 07 GAU CK 0013

In the Gauhati High Court

Case No : Civil Rule No's. 48 to 56 and 85 of 1984

Purbanchal Bricks Industries

APPELLANT

Vs

State of Tripura and Others

RESPONDENT

Date of Decision : 21-07-1989

Acts Referred:

Constitution of India, 1950 — Article 14, 19(1), 245, 246

Tripura Sales Tax Act, 1976 — Section 21(2), 23, 24, 26, 26(3)

Citation : (1990) 79 STC 123

Hon'ble Judges : J.M. Srivastava, J;B.P. Saraf, J

Bench : Division Bench

Advocate : B. Das, T.K. Dey and S. Chakravarty, for the Appellant; S. Barman Roy, Advocate-General and M. Majumdar, Government Advocate, for the Respondent

Judgement

B.P. Saraf, J.—In this batch of petitions the petitioners have challenged the validity of Section 26A of the Tripura Sales Tax Act, 1976, on the ground of violation of the provisions of Articles 14 and 19(1)(g) of the Constitution. As the facts of all the cases are identical, the facts of one of the cases, namely, Civil Rule No. 48 of 1984 are set out below.

The petitioner in Civil Rule No. 48 of 1984, is a partnership firm carrying on the business of manufacture and sale of bricks, etc., and is registered as a dealer under the Tripura Sales Tax Act, 1976, hereinafter "the Act". The petitioner was assessed by the Superintendent of Taxes, Dharmanagar, u/s 9(4) of the Act for the period ending 1982-83 and a sum of Rs. 19,687.50 was determined as the amount due on account of tax and interest after allowing deduction for the amount of Rs. 5,000 paid by the petitioner. In pursuance of the aforesaid order of assessment, a notice of demand was issued directing the petitioner to pay the amount within the date specified therein. The petitioner preferred an appeal against the said order of assessment before the Assistant Commissioner of Taxes and prayed for stay of realisation of the demand pending disposal of the appeal. The Assistant Commissioner of Taxes directed the petitioner to deposit 65 per

cent of the amount due as per the impugned order of assessment by March 22, 1984. In the meantime the Superintendent of Taxes issued a notice of demand u/s 26A of the Act dated April 6, 1984, to the Executive Engineer, Ambassa Division, North Tripura, directing him not to pay the amount due from him to the petitioner but to pay the same in the Government treasury in liquidation of the arrears of tax due from the petitioner. The above notice was issued in prescribed form, namely, form XIX and a copy of the same was forwarded to the petitioner. Aggrieved by the aforesaid notice issued u/s 26A, the petitioner has filed the present writ petition challenging, inter alia, the constitutional validity of Section 26A as well as the exercise of power under the said section by the Superintendent of Taxes under the facts and circumstances of the case.

2. Before we deal with the various grounds put forward challenging the constitutional validity, it will be worthwhile to have a brief resume of the relevant provisions of the Act dealing with the payment of taxes, default in payment, and the procedure for recovery thereof. Section 23 of the Act provides for service of notice of demand when any tax or penalty or other dues are payable under the Act. The said section reads as under :

"23. Notice of demand.--When any tax or penalty or other dues is or are payable in consequence of any order passed under or in pursuance of this Act, the Commissioner shall serve upon the person liable to pay such tax or penalty or other dues a notice of demand in the prescribed form specifying the sum so payable."

Section 24 of the Act lays down the manner of payment of tax payable under the Act. It provides :

"24. Tax when payable.--(1) Tax payable under this Act shall be paid in the manner hereinafter provided.

(2) Before any registered dealer furnishes the returns required by Sub-section (1) of Section 8, he shall in the prescribed manner, pay into a Government treasury the full amount of tax due from him under this Act on the basis of such returns, and shall furnish along with the returns a receipt from such treasury in token of payment of such tax.

(3) Where a revised return is submitted by a registered dealer under Sub-section (3) of Section 8, and if the revised return shows a greater amount of tax to be due than was payable on the basis of the original return, the dealer shall pay the excess amount of tax in the manner provided in Subsection (2), and shall furnish along with the revised return a receipt in token of payment of such excess tax.

(4) The amount of tax due under the provisions of this Act--

(a) in excess of payments already made under Sub-sections (2) and (3), or

(b) where no payment has been made,

shall be paid by the dealer by such date as may be specified in the notice of

demand and where no such date is specified, it shall be paid within thirty days from the date of service of the notice."

From a bare reading of Section 24 it is clear that it specifies different periods for payment at different stages. Sub-section (2) provides for payment of tax by registered dealer at the time of submission of return u/s 8(1) of the Act. Sub-section (3) deals with payment of tax on filing of a revised return. Sub-section (4), which is relevant for the present case, lays down the manner of payment in cases where amount due under the provisions of the Act is in excess of the amount paid under Sub-section (2) or (3) or where no payment has been made by the dealer. In such cases the dealer is required by Sub-section (4) to pay the tax by such date as may be specified in the notice of demand and where no such date is specified within 30 days from the date of service of the notice.

Section 26 of the Act deals with the mode of recovery in cases where a dealer makes default in payment of tax due under the Act. It reads :

"26. Mode of recovery.--(1) If the demand in respect of any dues under this Act is not paid on or before the date specified as aforesaid, the dealer shall be deemed to be in default :

Provided that the Commissioner may, in respect of any particular dealer and for reasons to be recorded in writing, extend the date of payment of the dues or allow such dealer to pay the same by instalments and in that case the dealer shall not be deemed to be in default till the date as extended or the last date of payment by instalment is over.

(2) Where a dealer is in default, the Commissioner may, in his discretion, direct that, in addition to the amount due, a sum not exceeding that amount shall be recovered from the defaulter by way of penalty.

(3) Where a dealer is in default, the Commissioner may order that amount due shall be recoverable as an arrear of land revenue and may proceed to realise the amount due as such :

Provided that when security for proper payment of tax has been furnished by the dealer in pursuance of a demand under the proviso to Subsection (1) of Section 7, the Commissioner may realise any such amount due or part thereof by ordering forfeiture of the whole or any part of such security."

Sub-section (1) of Section 26 thus lays down as to when a dealer shall be deemed to be in default. Sub-section (2) provides for levy of penalty on dealers who are deemed to be in default under Sub-section (1). Sub-section (3), which is very relevant for the present case, empowers the authority in a case where a dealer is in default, to order that the amount due shall be recoverable as arrear of land revenue and proceed to realise the amount as such. From a review of the aforesaid provisions of the Act it will be clear that if a dealer is deemed to be in default in respect of any amount due under the Act, the authority concerned has been vested with the power to levy penalty and also to recover the same as an

arrear of land revenue.

The aforesaid scheme of the Act regarding payment and collection of arrears from defaulting dealers continued till the amendment of the Act by the Tripura Sales Tax (Second Amendment) Act, 1981, which inserted a new section in the Act, namely, Section 26A to provide for special mode of recovery. The said Section 26A is the subject-matter of challenge in the present batch of petitions, and is reproduced below :

"26A. Special mode of recovery.--(1) Notwithstanding anything contained in any law or contract to the contrary or the issue of a requisition under Sub-section (3) of Section 26 for the realisation of tax or penalty as arrears of land revenue, the Commissioner may, at any time or from time to time, by notice in writing in the prescribed form, a copy of which shall be forwarded to the dealer at his last known address, require--

(a) any person from whom any amount of money is due, or may become due, to a dealer on whom notice has been served u/s 23, or

(b) any person who holds or may subsequently hold money on account of such dealer,

to deposit in the treasury, either forthwith upon the money becoming due or being held or within the time specified in the first mentioned notice (but not before the money becomes due or is held as aforesaid) so much of the money as is sufficient to pay the amount due from the dealer in respect of the tax and penalty under this Act, or the whole of the money when it is equal to or less than that amount.

Explanation.--For the purpose of this sub-section, the amount of money due to a dealer from, or money held for on account of a dealer by any person, shall be calculated by the Commissioner after deducting therefrom such claims (if any) lawfully subsisting, as may have fallen due for payment by such dealer to such persons.

(2) Any person discharging any liability to the dealer after receipt of the notice referred to in this section, shall be personally liable to the Commissioner to the extent of the liability discharged or to the extent of the liability of the dealer for tax and penalty, whichever is less.

(3) Save as otherwise provided in this section, every person to whom a notice is issued under this section shall be bound to comply with such notice and in particular, where any such notice is issued to a Post Office, Banking Company, or Insurer, it shall not be necessary to produce any passbook, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before the payment, notwithstanding any rule, practice or requirement to the contrary.

(4) Any claim in respect of the property in relation to which a notice under this

section has been issued, arising after the date of the notice, shall be void as against any demand contained in the notice.

(5) Where a person to whom a notice under this section is sent, proves to the satisfaction of the Commissioner that the sum demanded or any part thereof is not due to the dealer or that he does not hold any money for or on account of the dealer, then, nothing contained in this section shall be deemed to require such person to pay any sum or part thereof, as the case may be, to the Commissioner.

(6) If the person to whom a notice under this section is sent fails to make payment in pursuance thereof he shall be deemed to be a dealer in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear due from him and such amount shall be recoverable as arrears of land revenue.

(7) The Commissioner may apply to the court in whose custody there is money belonging to the dealer, for payment to him of the entire amount of such money or if it is more than tax and penalty, if any due, an amount sufficient to discharge such tax and the penalty :

Provided that any dues or property which are exempted from attachment u/s 60 of the Code of Civil Procedure, 1908, shall also be exempted from the operation of this section."

This section thus provides a machinery for the revenue to collect arrears from the debtors of the dealer. It is in substance the familiar garnishee proceedings under the Code of Civil Procedure.

3. The petitioners have challenged the validity of the aforesaid section and the notice issued thereunder on the ground that it violates the provisions of Articles 14 and 19(1)(g) of the Constitution. It was urged that the authorities have been vested with arbitrary powers to pursue two different procedures for realising the amounts due under the Act without giving any guidance as to when either of the two procedures should be resorted. It has been pointed out that the mode of recovery provided u/s 26A is much harsher than the one provided in Section 26 of the Act and there are no safeguards embodied in the said section against arbitrary or discriminatory exercise of powers under the said section. It has been left entirely to the discretion of the authority concerned without any guidance and, as such, Section 26A is violative of Article 14 of the Constitution.

4. We have heard Mr. B. Das, the learned counsel for the petitioners, and Mr. S. Barman Roy, the learned Advocate-General for the respondents. It was contended by the learned Advocate-General that Section 26A was enacted with a view to providing the State a speedy and easy process of making realisation from the defaulting dealers and such a provision cannot be challenged on the ground of violation of Article 19 of the Constitution. According to him such a provision for speedy recovery of arrears of tax from defaulting dealers contained in Section

26A cannot, by any stretch of imagination, be held to be unreasonable restriction on the right of a dealer to carry on trade or business. Regarding the challenge on the ground of violation of Article 14 it was contended by the learned Advocate-General that on account of the fact that two remedies have been made available to the department for recovery of arrears of tax the provision cannot be held to be violative of Article 14. According to him Section 26A was enacted in the public interest to provide for speedy mode of recovery and no fault can be found with the same. It was further submitted that resort to Section 26A can be taken only when a dealer defaults in making payment within the specified time or extended lime and, as such, the same cannot be challenged as arbitrary or unreasonable.

5. We have carefully considered the submissions of the learned counsel for both the parties. We have perused the scheme of the Act more particularly the provisions relating to payment and recovery of the amounts due under the Act which have been set out above, as well as the provisions of Section 26A of the Act as inserted by the Second Amendment Act of 1981. The said section was enacted with a view to providing for speedy and easy process of making realisation from the defaulting dealers. It is clear from the statement of objects and reasons for enactment of the said section, as given in the Amendment Bill introduced in the Assembly and published in the Tripura Gazette, Extraordinary, issue dated April 4, 1981, at page 6, which reads as follows :

"The Act does not provide for any special provision for making realisation from defaulting dealers in a speedy and easy process and hence a new Section 26A has been inserted providing some special mode of recovery."

6. It is also clear that the special mode of recovery was provided in addition to the one available under the Act. This mode of recovery, therefore, can be adopted concurrently with the one provided under Sub-section (3) of Section 26 of the Act, i.e., recovery as arrear of land revenue or any other mode of recovery under any other law. It can be resorted to even without any proceedings having been taken under Subsection (3) of Section 26 of the Act. Thus the remedy provided by the section is not in substitution of the remedy already available under the Act, but is in addition to it.

7. In this background, let us examine the challenge to the validity of the section on the ground of violation of rights under Article 19(1)(g) of the Constitution. Article 19 of the Constitution guarantees certain rights to a citizen. One of the rights enumerated there in Clause (1)(g) is right "to practise any profession, or to carry on any occupation, trade or business" The State has, however, been given power to impose reasonable restrictions on the exercise of any of the rights conferred by Article 19 in the interest of general public. Levy of tax in exercise of power conferred under the Constitution per se does not amount to any restriction on the right to carry on trade or business. It may infringe the right guaranteed under Article 19(1)(g) only if it is without legal authority or in contravention of the limitation imposed by the Constitution. Sales tax is levied by a State in exercise of its constitutional power under Articles 245 and 246 of the

Constitution and item 54 of List II of the Seventh Schedule to the Constitution. The provisions relating to recovery are ancillary to the exercise of power to levy tax. In the instant case Section 26A does not levy any tax. It only provides an additional mode of recovery of taxes from dealers who are liable to pay tax but failed to pay the same. There are some modes of recovery already provided in Section 26. One of such modes is recovery as arrear of land revenue. By Section 26A a special and speedier process for recovery of tax has been provided. The State has the power to make such provision. It is in the public interest. It is difficult to comprehend how the said provision puts restriction on the right of the petitioners to carry on trade or business. The petitioners have failed to make out any case of infringement of the rights under Article 19(1)(g) of the Constitution. The argument, therefore, that Section 26A puts an unreasonable restriction on the rights of the petitioners to carry on business, cannot be accepted.

8. The next ground on which the validity of Section 26A has been challenged is that it violates the rights guaranteed under Article 14 of the Constitution. The aforesaid challenge is based on the ground that two different procedures have been made available to the sales tax authorities for realisation of the arrears of tax without any guidance as to the circumstances in which either of the two procedures should be resorted. It was urged that the mode of recovery provided by Section 26A is much harsher than the one already provided by Section 26, namely, recovery as arrear of land revenue. By resorting to Section 26A the sales tax authorities can issue notices to the debtors of the dealer directing them not to pay the amount of debt to the dealer but to pay the same towards the liquidation of the amount of arrears of tax without even giving any notice to the dealers to that effect. It was urged that the power is unrestricted and unguided, and that unfettered discretion has been given to the officers who can pick and choose one of the two remedies and apply it to any dealer as they like. No appeal has been provided against such exercise of power. It is, therefore, contended that Section 26A, on the face of it, is arbitrary and discriminatory and violative of Article 14 of the Constitution.

9. The learned Advocate-General, in reply, submitted that this section applies uniformly to all dealers. The special mode of recovery is in addition to the existing modes. The object is clear from the statement of objects and reasons. It does not make any distinction between different dealers and uniformly applies to all. It makes no discrimination and does not in any way violate the rights guaranteed by Article 14 of the Constitution.

10. We have considered the submissions of both the parties. From a perusal of the scheme of the Act it is clear that speedy and easy method of recovery of tax dues from defaulting dealers has been provided by Section 26A. Whether such a law will be hit by Article 14 of the Constitution is the point at issue. In other words, the question is if there are more than one mode of recovery provided in the Act one being more onerous than the other without giving any guidance as to the circumstances in which either of the procedures should be adopted, whether

such a law can be said to be arbitrary, discriminatory and violative of Article 14 of the Constitution.

11. An identical question came up for consideration before this Court (then Assam High Court) in *Murlidhar Jalan Vs. Income Tax Officer, Dibrugarh*, wherein the validity of the provisions of Section 46(5A) of the Indian Income Tax Act, 1922, which invested the Income Tax Officer with discretion to direct third persons to pay up amounts due from them to the assessee towards discharge of latter's tax liability, was challenged on the ground of violation of Articles 14: 19 and 31 of the Constitution. It was held that the said provision did not violate the provisions of any of the aforesaid articles of the Constitution. Dealing with the challenge on the ground of violation of Article 14 it was observed : "That there should be a special and summary procedure for the recovery of the tax dues cannot be doubted. Having regard to the object of the Income Tax Act, it is fair to provide a special procedure for recovery of the tax dues and not to leave the authorities to realise the amount of tax dues through the normal procedure of courts". It was held :

"Section 46(5A) provides another mode of recovery of tax. If the tax has been validly imposed, there is a liability to pay up the tax. If the debtors of the assessee are directed to pay up the tax due they are only asked to discharge the liability of the assessee. Whether the liability is discharged by attachment or other modes of recovery provided under the Land Revenue Act or by simply issuing direction to the debtor of the assessee, to pay up the amount of debt due from them, does not, to my mind, amount to any substantial discrimination.

That in some cases it may result in hardship to the assessee, is no ground for holding the law as substantially discriminatory. Ordinarily, the tax liability should not be recovered by coercive processes. The coercive processes should be resorted to when all other means have been exhausted. But it cannot be said that the law on that account results in substantial discrimination. The provisions of Section 46(5A) have already been quoted in extenso, and if no amount is due to the assessee, the debtor is not bound to pay anything. If no payment is made by the debtor under the notice further proceedings are to be taken by and before the Collector on the footing that the Income Tax Officer's notice has the same effect as an attachment by the Collector in the exercise of his powers, under the proviso to Sub-section (2) of Section 46. There is, therefore, no substantial discrimination."

The aforesaid decision squarely applies to the present case.

12. We also find that in the *State of Kerala v. C.M. Francis & Co.* [1961] 12 STC 119 the Supreme Court had also occasion to deal with the validity of two remedies for recovery of sales tax. It was held that if the two remedies are open both can be resorted to at the option of the authorities recovering the amount, unless the statute in express words lays down that one remedy is to the exclusion of the other. The two remedies in the aforesaid case were, one by

collection of the amount as arrear of land revenue and the other by resorting to prosecution before the criminal court. It was held that neither of the remedies was destructive of the other. In *Maganlal Chhagganlal (P) Ltd. v. Municipal Corporation of Greater Bombay* (1974) 2 SCC 402 two procedures were available to the Corporation for eviction of the unauthorised occupants, one by way of a suit under the ordinary law and the other under either of the two Acts, namely, Bombay Municipal Corporation Act and the Bombay Government Premises (Eviction) Act, which was more drastic and onerous. The question for determination was whether the latter was hit by Article 14 of the Constitution in the absence of any guidelines as to which procedure might be adopted. It was held by the Supreme Court :

"It is rather interesting that this attack based on Article 14 of the Constitution should have led to the apparently more onerous and harsher procedure becoming the rule, the resort to the ordinary Civil Court being taken away altogether. It is difficult to imagine who benefits by resort to the ordinary Civil Courts being barred. One finds it difficult to reconcile oneself to the position that the mere possibility of resort to the Civil Court should make invalid a procedure which would otherwise be valid. It can very well be argued that as long as a procedure does not by itself violate either Article 19 or Article 14 and is thus constitutionally valid, the fact that that procedure is more onerous and harsher than the procedure in the ordinary Civil Courts, should not make that procedure void merely because the authority competent to take action can resort to that procedure in the case of some and ordinary Civil Court procedure in the case of others."

13. In the aforesaid case the contention that the mere availability of two procedures will vitiate one of them, was held to be not supported by any reason or authority and therefore rejected.

14. The constitutional validity of two provisions conferring different procedures for collection of tax also came up for consideration before the Supreme Court in *Commissioner of Sales Tax, Madhya Pradesh, Indore and Others Vs. Radhakrishnan and Others*, . In that case the Supreme Court was dealing with the provisions of the M.P. General Sales Tax Act, 1958. Section 22(4-A) of the said Act provided that when amount due was not paid within the time allowed, the Commissioner, after giving the dealer a reasonable opportunity of being heard, could direct the dealer to pay in addition to the amount due, by way of penalty a sum specified therein. Thus the procedure prescribed in the aforesaid section was collection of the amount by way of levy of penalty. The other procedure available to the Commissioner was by taking recourse to proceeding u/s 46 of the said Act. Section 46 of the said Act (M.P. General Sales Tax Act) enumerated certain offences and penalties for contravention of some of the provisions of the said Act. Clause (c) of Sub-section (1) of Section 46 of the said Act empowered the Commissioner to initiate prosecution against a dealer who had failed to pay the tax in time. The position therefore was that the Commissioner was at liberty to

choose only one of the two remedies. There was a specific provision, Section 47A which provided that once proceedings are taken for levy of penalty, no prosecution could be instituted. The provision was challenged on the ground that one of the modes, namely, prosecution, was harsher than the other and there was no guidance provided to the Commissioner as to which of the procedures he should adopt in a given case. The Supreme Court observed that guidance will have to be inferred from the policy of the law itself, that is, if on particular facts of a case the Commissioner who is an officer of high standing, in exercise of his discretion comes to the conclusion that more drastic remedy should be taken, the exercise of the option cannot be termed as unconstitutional. It was held :

"In considering the validity of a statute the presumption is in favour of its constitutionality and the burden is upon him who attacks it to show that there has been a clear transgression of constitutional principles. For sustaining the presumption of constitutionality the court may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be conceived. It must always be presumed that the legislature understands and correctly appreciates the need of its own people and that discrimination, if any, is based on adequate grounds. It is well-settled that courts will be justified in giving a liberal interpretation to the section in order to avoid constitutional invalidity. These principles have given rise to the rule of reading down the sections if it becomes necessary to uphold the validity of the sections".

Applying the aforesaid principles, it was held :

"Reading the two provisions harmoniously, we are of the view that the discretion is given to the Commissioner to resort to one of the two remedies as the facts of the case may require. In graver case, he will be justified in taking the drastic remedy and resorting to prosecution in the criminal court if he is satisfied that such a course is necessary for the collection of the tax expeditiously. If the discretion is not properly exercised the court may be justified in interfering in such cases but the law cannot be held to be invalid."

15. Accordingly in the said case the provisions of the M.P. Act conferring powers on the authorities to resort to two different procedures for collection of tax were held to be valid.

16. Mr. B. Das, the learned counsel for the petitioners, placed reliance on the decision of the Supreme Court in *Olga Tellis and Others Vs. Bombay Municipal Corporation and Others*, *State of Maharashtra Vs. Mrs. Kamal Sukumar Durgule and Others*, and *D. Cawasji and Co., Mysore Vs. State of Mysore and Another*, We have considered the said decisions which in our opinion do not apply to the facts of the present case.

17. Keeping in view the law laid down by the Assam High Court and the Supreme Court in the cases discussed above, we are of the opinion that the special mode of recovery, namely, garnishee proceeding provided by Section 26A of the Act to

enforce payment of tax from defaulting dealers is not arbitrary, discriminatory or unreasonable. The said provision does not violate the provisions of Articles 14 and 19 of the Constitution of India.

18. We may now deal with the last submission of the learned counsel for the petitioners, namely, that Section 26A is vague and does not even specifically say as to at what stage power u/s 26A can be exercised and on that ground itself the section should be declared ultra vires. In reply to the aforesaid contention of the learned counsel for the petitioners, the learned Advocate-General pointed out the statement of objects and reasons of the Amendment Bill and submitted that apprehension of the petitioners is not well-founded. It was submitted that the very object of enacting Section 26A, as is evident from the statement of objects and reasons, is "to provide special provision for making realisation from defaulting dealers in a speedy and easy process". As such, the question of resorting to the same against dealers who are not defaulters does not arise. The learned Advocate-General submitted that if in any case any action has been wrongly taken by any authority contrary to the aforesaid scheme they were prepared to review such action. We find considerable force in the submission of the learned Advocate-General. Both Sections 26 and 26A deal with modes of recovery. The question of recovery, as fairly conceded by the learned Advocate-General, comes in only when the amount is not paid within the due dates either originally fixed or later extended. In other words, question of taking resort to coercive modes of recovery including garnishee proceeding u/s 26A, will arise only when a dealer is a defaulter or is deemed to be in default. This position is also borne out from the statement of objects and reasons. The learned Advocate-General also submitted that power u/s 26A has been delegated to the Superintendent of Taxes, who is a responsible officer and is also the assessing authority well-acquainted with the facts and circumstances of a given case. Against determination by such officer remedy is also available by way of revision to the Commissioner u/s 21(2) of the Act.

19. We have given our careful consideration to the submissions of the learned Advocate-General. In view of the fair stance taken on behalf of the Revenue, we do not think it necessary to delve deep into this aspect of the matter.

20. Accordingly, we hold that Section 26A of the Act does not violate the provisions of Articles 14 and 19 of the Constitution and is valid. In view of the statements made by the learned Advocate-General that they are prepared to review the cases of the petitioners in the light of the decision of this Court and if any action has been taken u/s 26A before a dealer was deemed to be in default, to modify the same, it is not necessary for us to go into the facts of the cases and/or to set aside/or quash the impugned notices u/s 26A. We, therefore, direct the respondents to re-examine the impugned notices by giving opportunity of hearing to the petitioners in the light of the observations made above and tilt such examination is made, not to take any further action in pursuance of the same. With the above observations and directions the petitions are disposed of.

Parties to bear their own costs.

J.M. Srivastava, J.

21. I agree.