(1964) 11 KL CK 0007

In the High Court Of Kerala

Case No : O.P. No. 2391 of 1963

Sree Narayana Transports APPELLANT

Vs

State of Kerala RESPONDENT

Date of Decision : 02-11-1964

Acts Referred:
Constitution of India, 1950 — Article 14, 301

Citation : (1965) 16 STC 659

Hon'ble Judges : M.S. Menon, C.J;M. Madhavan Nair, J

Bench : Division Bench

Advocate : K.P. Radhakrishna Menon, for the Appellant; Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

M. Madhavan Nair, J.—In this writ petition, the petitioner seeks to challenge the vires of Sections 29, 30 and 31 of the Kerala General Sales Tax Act (XV of 1963) as being violative of Article 301 of the Constitution. The petitioner is a transport operator, transporting goods to distant places both inside and outside the State of Kerala. Under the aforesaid sections "check-posts" have been established on highways at which lorries have to stop and the drivers are to show the authority bills-of-sale, delivery notes, way-bills or certificates of ownership of the goods they carry. These provisions, according to the petitioner, hamper the freedom of "trade, commerce and intercourse throughout India" guaranteed by Article 301, and he is put to loss and hardship on account of the delay in the movement of lorries held up at such check-posts. It was also contended that such restrictions imposed on transport operators other than railways, are violative of Article 14 of the Constitution. Both the contentions have been answered well in Rama Transport Co. (Private) Ltd. Vs. State of Uttar Pradesh and Others, . We are in entire agreement with the decision as well as the reasoning in that precedent. A requirement that carriers should take the documents relating to the transport, purchase or ownership of the goods in carriage to convince the authorities that the transport does not involve any evasion of legitimate taxation in the State cannot be said to offend anybody''s legitimate freedom to move the goods. All freedoms are within the precincts of law, not outside; and Article 301 of the Constitution provides no exception thereto. So long as the sales tax law is not impugned, provisions designed for its efficient administration cannot also be impeached. Such provisions not only aid the collection of tax, but assure the fair distribution of its impact lest a tax-evader shall steal a march over the honest taxpayer and thereby affect the latter''s legitimate freedom in trade, commerce and intercourse.

2. The differences in the character of the operators and in their modus operandi are so telling that the classification between railways and motor transports has to be found a reasonable one in relation to the purpose of the enactment.

3. We do not find any merit in this petition, which is therefore dismissed. No costs.

