(1996) 10 SC CK 0218

In the Supreme Court Of India

Case No : Civil Appeals Nos. 3439-40 Of 1983

Sushil Flour Dal and Oil Mills APPELLANT

Vs

Chief Commissioner and Others RESPONDENT

Date of Decision : 29-10-1996

Acts Referred:

Citation : (2000) 10 SCC 454

Hon'ble Judges : S. P. Bharucha, J;S. B. Majmudar, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. The respondents were represented. They have been given notice by the Registry of the designation of their Advocate-on-Record as Senior Counsel and asked to make alternative arrangements. The notice was issued on 30-8-1996 and its service may be presumed. The respondents do not appear.

2. The appellants filed a writ petition in the High Court of Punjab and Haryana challenging notifications fixing the rate under Section 5(1) of the Punjab General Sales Tax Act in relation to the Union Territory of Chandigarh. The notifications were issued by the Administrator (Chief Commissioner) of the territory. The challenge was upheld by the learned Single Judge but it failed in appeal. It is the judgment under appeal which is questioned before us.

3. The argument which found favour with the learned Single Judge was this: the impugned notifications, having been issued by a delegate of the Central Government, were bad because the Central Government could not further delegate its power to the Administrator. The learned Single Judge took the view that the Central Government having itself been delegated legislative power under the said Act, it could not further delegate it to the Administrator.

4. The Division Bench was, in our view, right in pointing out that there was no delegation of power. Under Part VIII of the Constitution the power to administer the Union Territories vested in the President and the President could exercise that

power directly or through an Administrator appointed by him. An Administrator so appointed was the medium through which the President exercised the function of administering the Union Territories. Reliance was also placed by the Division Bench, and rightly, upon Section 3(8) of the General Clauses Act which provides that in relation to the administration of the Union Territories, the Central Government means the Administrator thereof acting within the scope of the authority given to him under Article 239 of the Constitution. No amplification of this position seems to be necessary.

5. The appeals are dismissed, with no order as to costs.

