(1974) 10 MAD CK 0023

In the Madras High Court

Case No : Writ Petition No''s. 2942 to 2944 of 1973

Union Traders APPELLANT

Vs

Deputy Commercial Tax Officer, Thyagarayanagar Division RESPONDENT

Date of Decision : 15-10-1974

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1975) 36 STC 180

Hon'ble Judges : V. Ramaswami, J;Ramanujam, J

Bench : Division Bench

Advocate : T. Vadivel, for the Appellant; K. Venkataswami, First Additional Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Ramanujam, J.—All the above writ petitions have been filed by the same assessee but in relation to different assessment years 1969-70, 1970-71 and 1971-72. For all the said assessment years, the petitioner has been assessed on their sales of car seat covers at the rate of 13 per cent treating the sales as coming under item 3 of the First Schedule to the Tamil Nadu General Sales Tax Act, 1959. The assessee had contended before the assessing authority that the rate of tax on sales of car seat covers should be at 3 1/2 per cent multi-point and not at the rate of 13 per cent single point. According to the petitioner, the car seat covers cannot be treated as automobile accessories and brought in for charge under item 3 of the First Schedule to the Tamil Nadu General Sales Tax Act. The assessing officer, however, rejected the said contention. The petitioner thereafter filed appeals and two of the appeals relating to the assessment years 1969-70 and 1971-72 have been disposed of by the Appellate Assistant Commissioner holding that the car seat covers are liable to be taxed as automobile accessories. The petitioner has thereafter filed appeals to the Sales Tax Appellate Tribunal in relation to those assessment years. As regards the assessment for 1970-71 the appeal before the appellate authority is still pending.

2. The common point that has been urged in relation to the assessments for all the three years is that the car seat covers cannot be assessed at a higher rate of tax, treating them as accessories of automobiles. So far as this question is concerned it is seen that the point is covered by the decisions of this court in Khetty Traders v. State of Madras [1973] 32 S.T.C. 346 and State of Madras v. Meerakasim Karnatic Seat Co. [1973] 32 S.T.C. 463. In view of the said decisions, it is not possible to accept the contention of the petitioner that the car seat covers are not accessories of cars and therefore it should not be assessed at a higher rate of tax. Following the said decisions we hold that the car seat covers sold by the petitioner during the assessment years are taxable at the rate of 13 per cent.

3. The learned counsel for the petitioner has also raised a further contention that the statutory provisions which enable the assessing authority to levy different rates of tax for different seat covers such as car seat covers, cycle seat covers and seat covers of other automobiles like tractors, etc., are discriminatory and, therefore, offend Article 14 of the Constitution. The learned counsel contends that seat covers made out of the same material are treated as accessories of cars, cycles and tractors and taxed at 13 per cent, 6 per cent and 7 per cent under items 3, 38 and 55 respectively, that, the provision for different rates of tax for articles made out of the same material is clearly discriminatory, though their use may be different and that, therefore, they have to be subjected to the same rate of tax without reference to the vehicle in which the seat cover is to be used. We are not, however, inclined to accept the contention of the learned counsel that the provisions in items 3, 38 and 55 of the First Schedule to the Tamil Nadu General Sales Tax Act providing for different rates of tax for car including its accessories, cycle including its accessories and tractor with accessories, respectively, are discriminatory. In all the above items, accessories of the vehicle have been dealt with and charged to tax at the same rate as the vehicle to which it is an accessory is charged. It is therefore clear that the seat cover as an accessory is not taxed with reference to the material out of which it has been manufactured. Various rates of tax have been prescribed under the above items only with reference to its use. There cannot be any dispute that the legislature has got wide latitude in the matter of selection of articles for levy of tax and of imposition of rates of tax. It has been held by the Supreme Court in V. Venugopala Ravi Varma Rajah Vs. Union of India and Another, :

The power to classify may be exercised so as to adjust the system of taxation in all proper and reasonable ways : the legislature may select persons, properties, transactions and objects, and apply different methods and even rates for tax, if the legislature does so reasonably.... If the classification is rational, the legislature is free to choose objects of taxation, impose different rates, exempt classes of property from taxation, subject different classes of property to tax in different ways and adopt different modes of assessment, A taxing statute may contravene Article 14 of the Constitution if it seeks to impose on the same class of property, persons, transactions or occupations similarly situate, incidence of taxation, which leads to obvious inequality.

4. It is for the legislature to determine the objects on which tax shall be levied, and the rates thereof. The courts will not strike down an Act as denying the equal protection of laws merely because other objects could have been, but are not, taxed by the legislature."

5. We are not therefore in a position to accept the contention of the learned counsel that there has been an infringement of Article 14 of the Constitution in the adoption of different rates for the various types of accessories such as seat covers. These petitions are therefore dismissed with costs in W. P. No. 2942 of 1973 alone. There will be no orders as to costs in the other petitions. Counsel''s fee Rs. 150.

