(2003) 11 AHC CK 0067

In the Allahabad High Court

Case No : C.M.W.P. No. 54 of 2003 (Tax)

Yaqub Khan and Others — APPELLANT

Vs

State of U.P. and Others — RESPONDENT

Date of Decision : 03-11-2003

Acts Referred:
Constitution of India, 1950 — Article 14

Citation : (2004) 1 AWC 528

Hon'ble Judges : R.S. Tripathi, J;M. Katju, J

Bench : Division Bench

Advocate : H.N. Singh and B. Narayan Singh, for the Appellant; S.P. Kesarwani, (S.C.), S.C., for the Respondent

Final Decision : Dismissed

Judgement

M. Katju and R. S. Tripathi, JJ.—Heard learned counsel for the parties,

2. The petitioners have challenged the constitutional validity of U.P. Motor Vehicles (Amendment) Ordinance, 2002, which has been replaced by U.P. Act No. 4 of 2003, Copy of the said amendment has been annexed as Annexure-12A with the Application for Amendment, which has been allowed today.

3. The constitutional validity of the impugned Ordinance and Act have been upheld by several Division Benches of this Court e.g., H.C. Misra v. State of U.P. 2000 ALJ 2627 ; Smt. Vidya Gupta v. State of U.P., C.M. Writ Petition No. 1025 of 2001 (Tax), decided on 10.9.2002 and Gokul Prasad Rai and Ors. v. State of U.P. and Ors., C.M. Writ Petition No. 12 of 2003 (Tax), decided on 16.1.2003, etc.

4. Shri H. N. Singh learned counsel for the petitioners submitted that in this petition, the petitioners have taken a different ground, which was not taken in the writ petitions referred to above. He has submitted that the earlier decisions were on the question of legislative competence to enact the impugned Ordinance and Act, whereas in this petition, he has taken the point of Article 14 of the Constitution of India. Shri Singh submitted that in the 4th Schedule of the U.P.

Motor Vehicles Taxation Act, 1997, earlier there were total of 8 categories of vehicles for which additional tax was fixed. By the impugned Ordinance and Act, the first three categories have been deleted. In paragraph 3 of the writ petition, it is alleged that the petitioners'' vehicle runs about 3,960 kms. in every three months. By the impugned Ordinance and Act, even the vehicles which run 3,960 kms. in three months, will have to pay the same additional tax as vehicles which run a minimum of 9,000 kms. in three months (because the first three categories in Clause II of the 4th Schedule of the Act have been deleted).

5. In para 7 of the petition, it is alleged that the petitioner was earlier paying Rs. 10,098 as additional tax in three months, but now after the impugned Ordinance and Act, Rs. 20,0043 will have to be paid as additional tax in three months. We cannot accept this submission. It is well-settled, that in tax matters the rate of tax is basically a policy matter and it is not for this Court to interfere in such tax matters. No doubt, Article 14 applies to taxing statutes also but greater flexibility and attitude is allowed to the Legislature or its delegate in such matters vide The Anant Mills Co. Ltd. Vs. State of Gujarat and Others, : R.K. Garg v. Union of India. 1982 UPTC 355 (SC) ; Malwa Bus Service (Private) Limited and Others Vs. State of Punjab and Others, etc. This is in view of the inherent complexity of fiscal arrangements vide I.T.O. v. N.T.R. Rymbai AIR 1976 SC 670 ; Amalgamated Tea Estate v. State of Kerala 1975 UPTC 89 , etc. The State has wide discretion in selecting the objects or persons that it will tax vide Khyerbari Tea Co. Ltd. and Another Vs. The State of Assam, . It can pick and choose objects, areas, persons, rates, etc. vide V. Venugopala Ravi Varma Rajah Vs. Union of India and Another, ; I.T.O. v. N.T.R. Rymbai AIR 1976 SC 670 ; State of M.P. v. Bhopal Sugar Industries,. AIR 1974 SC 1179 and State of Bihar and Others Vs. Sachchidanand Kishore Prasad Sinha and Others, etc. We are of the opinion that merely because three items in Clause II of the 4th Schedule have been deleted, this does not mean that there is any violation of Article 14 of the Constitution of India, There is no merit in this petition and it is dismissed.

