JAIPUR HOSIERY MILLS (P) LTD., JAIPUR A

v.

THE STATE OF RAJASTHAN & OTHERS.

April 27, 1970

[J. C. SHAH, K. S. HEGDE AND A. N. GROVER, JJ.] B

Constitution of India, 1950, *Art.* 14—*Rajasthan Sales Tax Act* 1950 *s.* 4(2)—*Exemption granted by notification to some garments—Not extended to hosiery articles—If violates Art.* 14.

On January 31, 1958, a notification was issued by the State Government under s. 4(2) of the Rajasthan Sales Tax Act, 1950 exempting from tax the sale of any garment the value of which did not exceed Rs. 4. In a writ petition filed by a manufacturer of vests and underwears (hosiery C articles) the High Court held that the notification covered hosiery articles also. On March 26, 1962, the State Government issued another notification under s. 4(2) of the Act exempting from tax the sale of any garment the value of which did not exceed Rs. 4 but the exemption was not made applicable to 'hosiery products and hats of all kinds'. The appellants who were doing business in vests and underwears of knitted fabric challenged in writ petitions the notifications on the ground that it violated Art. 14 of the Constitution. The High Court dismissed the petitions and held D vests and underwears came under 'hosiery products'.

In appeal to this Court,

HELD : (1) A taxing status can be challenged on the ground of infringement of Art. 14, but since the Legislature possesses a large freedom of classification in matters of taxation, it can exercise wide discretion in selecting persons or objects which will be taxed, and, a statute is not open E to attack on the mere ground that it taxes some persons or objects and not others. It must be shown that within the range of its selection the law operates unequally. Therefore, it is not for the Court to decide whether the policy of exempting articles made from woven cloth was justified or that hosiery articles should also be given the same exemption. [397 G-H; 398 A]

(2) The High Court ought not to have gone into the matter whether F vests and underwears are hosiery products as it was for the assessing authorities to decide, in each case, whether the taxed goods were hosiery products. [398 F-G]

CIVIL APPELLATE JURISDICTION : Civil Appeals Nos. 77 to 84 of 1967.

Appeals from the judgment and order dated November 22, 1966 of the Rajasthan High Court in D. B. Civil Writs Nos. 81 and G 590 of 1965 and 9, 201, 217, 511, 512 and 513 of 1966.

H. R. Gokhale, Bishamber Lal and *N. K. Puri,* for the appellants.

A. K. Sen and *K. B. Mehta,* for the respondents.

The Judgment of the Court was delivered by H

Grover, J. These eight appeals by certificate arise out of a common judgment of the Rajasthan High Court dismising the

A petitions under Art. 226 of the Constitution filed by the appellants.

The appellants carry on the business, *interalia*, of manufacture and sale of vests and underwears (Baniyans and Chaddies) out of knitted fabric. On January 31, 1958 a notification was issued by the State Government under
B s. 4(2) of the Rajasthan Sales Tax Act 1950, hereinafter called the "Act", exempting from tax the sale of any garment whether prepared within or imported from outside Rajasthan the value of which did not exceed Rs. 4/- in single piece. In spite of the aforesaid notification the authorities did not exempt from payment of sales tax the sale of vests and underwears the value of
C which did not exceed Rs. 4/- in single piece. The notification was interpreted to mean that the goods manufactured by the appellants were not garments within its meaning. M/s Pareek Hosiery Products, Jaipur, took the matter to the High Court by way of a writ petition under Art. 226 of the Constitution which was allowed and it was held that the vests and underwears were
D covered by the said notification. On March 26, 1962 the State of Rajasthan issued another notification in exercise of the powers under s. 4(2) of the Act by which the sale of garments whether prepared within or imported from outside Rajasthan the value of which did not exceed Rs. 4/- in a single piece were exempted from payment of sales tax but this exemption excluded "hosiery products and hats of all kinds." The appellants
E were subjected to sales tax in respect of sales of vests and underwears of knitted fabric for the periods of assessment ranging between April 1, 1961 to October 31, 1965. Penalties were also levied on them. It was in these circumstances that the appellants filed writ petitions in the High Court.

F The principal attack on the impugned notification was based on Art. 14 of the Constitution. It was urged before the High Court as it has been contended before us that there was no rational basis for classification between garments as such and knitted garments like Baniyans and Chaddies. In the affidavit which was filed by the State no reason was given why particular
G kind of garments were exempted whereas others of the same value were not given the benefit of exemption. It is well settled that although a taxing statute can be challenged on the ground of infringement of Art. 14 but in deciding whether the law challenged its discriminatory it has to be borne in mind that in matters of taxation the legislature possesses the large freedom in the matter
H of classification. Thus wide discretion can be exercised in selecting persons or objects which will be taxed and the statute is not open to attack on the mere ground that it taxes some persons or objects and not others. It is only when within the range of its

selection the law operates unequally and cannot be justified on the basis of a valid clasification that there would be a violation of Art. 14. A

Section 4(2) of the Act provides that no tax shall be payable on the sale or purchase of any of the exempted goods if the conditions specified in column 3 of the schedule are satisfied. Where the State Government is of opinion that it is necessary or expedient in the public interest so to do, it may by notification exempt from tax the sale or purchase of any goods or class of goods or any person or class of persons on such conditions as may be specified. The impugned notification was issued in accordance with this section. It is for the State to decide which granting the exemption by means of a notification as to the class of goods which should be exempted in public interest. As rightly pointed out by the High Court the notification makes a classification between garments in general the value of which does not exceed Rs. 4/- in a single piece and hosiery products including hosiery garments. Hosiery products generally are knitted articles. They are different from woven articles. It is not for the court to decide whether the policy of exempting articles made from woven cloth was justified or that hosiery articles should have been given the exemption in the same way as other garments. It is entirely for the taxing authorities to take a decision as to the goods which will be subjected to taxation and those which would be exempted from it. As no other discriminatory treatment has been suggested on behalf of the appellants we must hold in concurrence with the view of the High Court that the impugned notification is not hit by Art. 14 of the Constitution. B C D E

It has been pointed out that the High Court proceeded to decide whether the Baniyans and Chaddies were included in the term "hosiery products'. Such a decision should not have been given by the High Court but should have been left to the assessing authorities dealing with each individual case. In our judgment the High Court ought not to have gone into that matter as it was for the assessing authorites to decide in each case whether the goods which had been subjected to tax were hosiery products. With these observations the appeals are dismissed but in the circumstances there will be no order as to costs. F G

V.P.S. *Appeals dismissed.*