

A.R. Narayanan and ors. Vs. Wealth-tax Officer and ors.

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Court : Chennai

Decided On : Nov-23-1972

Reported in : [1974]94ITR393(Mad)

Judge : G. Ramanujam and ;V. Ramaswami, JJ.

Acts : [Wealth Tax Act, 1957](#) - Sections 5(1)

Appeal No. : Writ Petition Nos. 726, 727, 729, 893, 1375, 1416 and 1417 of 1971

Appellant : A.R. Narayanan and ors.

Respondent : Wealth-tax Officer and ors.

Advocate for Def. : V. Balasubrahmanyam and ;J. Jayaraman, Adv.

Advocate for Pet/Ap. : K.C. Rajappa, Adv. in W.P. Nos. 726, 727, 729, 1375, 1416 and 1417, ;K. Srinivasan and ;K.C. Rajappa, Adv. in W.P. No. 893 of 1971

Judgement :

Ramanujam, J.

1. In these writ petitions the petitioners seek to quash the assessment orders made against them by the concerned Wealth-tax Officer. The assessment orders are attacked by the petitioners on two grounds : (1) the provisions of the Finance Act of 1969 seeking to include agricultural lands in the definition of ' asset' in the

Wealth-tax Act, 1957, is ultra vires and unconstitutional as Parliament had no legislative competence to enact a law seeking to levy a tax on agricultural lands; and (2) the proviso to Section 5(1)(iva) of the Wealth-tax Act, 1957, as amended by the Finance Act of 1969, is liable to be struck down as discriminatory in that it has made invidious and hostile discrimination by granting higher exemption to assesseees who own agricultural lands and other assesseees who own other assets, and that the higher exemption relating to agricultural lands alone is violative of Article 14 of the Constitution.

2. The first contention has at once to be rejected in view of the decision of the Supreme Court in *Union of India v. Harbhajan Singh Dhillon*, : [1972]83ITR582(SC) . which has upheld the validity of the relative provision in the Finance Act, 1969, holding that Parliament was competent to take the value of agricultural lands for the purpose of levy of wealth-tax under the Wealth-tax Act, 1957.

3. Then we proceed to consider the other legal contention raised by the petitioners. In this connection, it is necessary to set out Section 3(1)(iv) and 5(1)(iva).

' 5. Exemption in respect of certain assets.--(1)... wealth-tax shall not be payable by an assessee in respect of the following assets, and such assets shall not be included in the net wealth of the assessee-- . . .

(iv) one house or part of a house belonging to the assessee and exclusively used by him for residential purposes :

Provided that where the value of such house or part, situate in a place with a population exceeding ten thousand, exceeds one lakh of rupees, the amount that shall not be included in the net wealth of an assessee under this section shall be one lakh of rupees;

(iva) agricultural land belonging to the assessee subject to a maximum of one hundred and fifty thousand rupees in value :

Provided that where the assessee owns any house or part of a house situate in a place with a population exceeding ten thousand and to which the provisions of Clause (iv) apply and the value of such house or part of a house together with the value of the agricultural land exceeds one hundred and fifty thousand rupees, then the amount that shall not be included in the net wealth of the assessee under this clause shall be one hundred and fifty thousand rupees as reduced by so much of the value of such house or part of house as is not to be included in the net wealth of the assessee under Clause (iv).'

4. Section 5(1)(iv) as amended provides for an exemption of a house property up to the value of Rs. 1,00,000. Under Section 5(1)(iva) agricultural lands up to the value of Rs. 1,50,000 are exempted. The contention of the petitioners as originally put forward in the affidavits is that the higher exemption in respect of agricultural lands under Section 5(1)(iva) is violative of Article 14 of the Constitution. But, at the time of the arguments, the learned counsel for the petitioners frankly stated that it is against the petitioners' interest to put forward such contention and that, therefore, he is giving up that contention. But he would, however, contend that the proviso, to Section 5(1)(iva) which reduces the exemption limit in relation to agricultural lands if the assessee happens to own a house property referred to in Section 5(1)(iv) is discriminatory and violative of Article 14. But we are definitely of the view that the impugned proviso does not suffer from any such infirmity. According to the learned counsel for the petitioners while an assessee who owns exclusively agricultural lands is entitled to exemption in relation thereto up to the limit of Rs. 1,50,000 under Section 5(1)(iva) an assessee who owns both agricultural lands and a house property referred to in Sub-section (iv) is not given exemption to the same limit and extent as the proviso to Section 5(1)(iva) cuts down the limit for exemption in such cases. In other words, what the petitioners say is that the exemption in relation to agricultural lands should be considered independently without reference to the existence of other items of assets or the grant of exemption in relation thereto under the provisions of the Act. It is well established that both in the matter of taxation and in the grant of exemption from the tax the legislature has got wide discretion to pick and choose classes of objects, persons and methods if it does so reasonably. It is true the legislature has chosen to provide a limit for exemption in relation to each category of assets. But

that cannot affect the powers of the legislature to provide a further limitation for exemption in relation to all categories of assets. The legislature is empowered to say that while granting the exemption in relation to one category of assets the assessing authority is bound to take into account the grant of exemption to the same individual under other categories of assets. Therefore, while granting exemption in relation to agricultural lands and fixing a limit of Rs. 1,50,000 under Section 5(1)(iva), the legislature had specifically provided that while considering the question of exemption under Clause (iva) the fact that the assessee has got an exemption under Clause (iv) in respect of a house property had to be taken into account. The legislative intention in introducing the proviso to Clause (iva) is to make a two-fold classification between persons owning only house properties referred to in Clause (iv) and persons owning other properties including agricultural lands, in the matter of exemption. The legislature has, therefore, provided that for persons owning house properties referred to in Clause (iv) the exemption limit will be Rs. 1,00,000 and persons who own house properties as well as agricultural lands the exemption limit will be Rs. 1,50,000. The said two-fold classification in the matter of grant of exemption has got a rational nexus with the object of the Act, and, therefore, it cannot be said to be either arbitrary or discriminatory.

5. The learned counsel for the petitioners brings to our notice the decision of the Supreme Court in *S.K. Dutta, Income-tax Officer v. Lawrence Singh Ingly*, : [1968]68ITR272(SC) . as supporting his contention. But we do not see how the petitioners can derive any support from that decision. In that case the exclusion of certain Government servants from exemption given under Section 4(3)(xxi) of the Indian Income-tax Act, 1922, and Section 10(26) of the Income-tax Act, 1961, was attacked as being violative of Article 14, Their Lordships of the Supreme Court held that in the context of exemption from income-tax there can be no distinction between the income earned by a Government servant and that earned by a person in other walks of life and that, therefore, there is no legal basis for differentiating Government servants from others in the matter of exemption. It was pointed out in that case that though taxation laws must also pass the test of Article 14 in deciding whether a taxation law is discriminatory or not it is necessary to bear in mind that the State has a wide discretion in selecting the persons or

objects it will tax, that a statute is not open to attack on the ground that it taxes some persons or objects and not others and that it is only when, within the range of its selection, the law operates unequally and that cannot be justified on the basis of any valid classification that it would be violative of Article 14. In that case the effect of the provision for exemption was that the taxing law operated unequally and that inequality could not be justified on the basis of any valid classification. But, in this case, it is not as if the taxing measure operates unequally. The impugned proviso merely provides that the total exemption in respect of persons owning exclusively agricultural lands and house properties should not exceed Rs. 1,50,000. We cannot see any objection to the fixation of a combined ceiling limit for two categories of assets for the purpose of exemption. As a matter of fact, the learned counsel himself concedes that the statute after providing exemption limit in respect of each asset can further provide that the aggregate exemption in respect of all the assets should not exceed a particular limit. What the legislature has done here is to fix a combined ceiling limit for exemption in respect of house properties as well as agricultural lands.

6. In the result the writ petitions are dismissed with costs. Counsel's fee, Rs. 100 in each case.

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