

CASE NO.:
Appeal (civil) 4236 of 1991

PETITIONER:
KHADI AND VILLAGED SOAP INDUSTRIES

RESPONDENT:
STATE OF HARYANA & OTHERS

DATE OF JUDGMENT: 17/08/1994

BENCH:
J.S. VERMA & K. RAMASWAMY

JUDGMENT:
JUDGMENT

1994 SUPPL. (2) SCR 675

The Judgment of the Court was delivered by

VERMA, J. The challenge in these appeals is to a part of the Notification No. S.O. 153/H.A. 20/73/5.13787 dated 30.12.1987 (Annexure P-2) which grants exemption from the payment of sales tax to the Khadi Ashram, Panipat and its centralised units functioning within the State of Haryana in exercise of the powers conferred by sub-section (1) of Section 13 of the Haryana General Sales Tax Act, 1973 (for short "the Act"), but limits the exemption to the other cooperative societies and persons to their turnover not exceeding rupees five lakhs in a year. An earlier Notification dated 10.8.1973 (Annexure P-1) granting exemption to this extent by Annexure P-2. Annexure P-2 has been brought into force w.e.f. 1.1.1988. Thereafter, by Notification dated 14.9.1992 brought into force w.e.f. 1.4.1992, the exemption limit of rupees five lakhs has been raised to rupees 30 lakhs. There is no grievance for the period subsequent to 1.4.1992. The only question, therefore, is : Whether the classification made between the Khadi Ashram, Panipat and its units and the other cooperative societies is discriminatory and violative of Article 14 of the Constitution of India?

The High Court has held that there is no discrimination inasmuch as the total exemption granted to the Khadi Ashram and its units while granting a limited exemption to others is a permissible and valid classification. Hence these appeals by special leave.

Shri G. Vishwantha Iyer, learned counsel for the appellants has reiterated the ground of discrimination to challenge the limit imposed in Annexure P-2 dated 30.12.1987 in respect of the other cooperative societies. However, learned counsel also submitted that the challenge now survives only in respect of appellant No. 2 M/s. Swastic Hand-made Papers production Cooperative Industries Societies Limited: Shri I.S. Goyal, in reply submitted that it is for the Government to determine whether a particular industry falls within the category to which exemption can be given under Section 13 of the Act and the object of promotion of Khadi envisaged by the directive principle in Article 43 of the Constitution permits such a classification placing the Khadi Ashram, Panipat and its units in the State of Haryana in a distinct class. He also submitted that it is significant that no challenge to this classification has been made by any other Khadi unit.

In the counter-affidavit of the State of Haryana, the distinguishing features of the Khadi Ashram, Panipat have been indicated it has also been stated that its accounts are duly audited whereas the other Khadi units which have not been granted the same degree of exemption do not have their activities monitored as effectively as the Khadi Ashram, Panipat in Haryana. Other distinguishing features to justify the classification have

also been indicated in the counter-affidavit.

The principles for determining the validity of classification in taxing statutes are well settled and so also the limits of judicial review in testing the validity thereof on the touchstone of equality under Article 14. The test applicable striking down a taxing provision on this ground is one of palpable arbitrariness in the context. It has also been held that a classification is permissible in a taxing statute of dealers on the basis of different turnovers for levying varying rates of sales tax. Adverting to the earlier decisions, this has been summarised in Kerala Hotel and Restaurant Association and Others v. State of Kerala and Others, [1990] 2 S.C.C. 502. Thus, a classification made on the basis of turnover apart from the other distinguishing features of Khadi Ashram, Panipat and its units justifies putting them in a distinct class for the grant of total exemption from payment of sales tax particularly when there is no challenge by the other khadi units. It is unnecessary to examine any other aspect since the above reasoning alone is sufficient to justify the classification.

The appeals are dismissed accordingly. No. costs.