Section 9 of the Amendment Act is a validating section and makes the provision of sub-section 2(A) of section 9 inserted thereby to operate retrospectively with effect from 5th day of January, 1957.

(18) In view of the altered position of law as indicated, evidently no assistance can be sought by the learned counsel from the judgment in *Khemka and Co., case.* It will have thus to be held that there is no substance in the contention of the learned counsel. The impugned notices as also the action proposed to be taken in furtherance of them so as to levy penalty, are perfectly legal and unquestionable.

(19) In the result, both the writ petitions are meritless and are dismissed. There will be no order as to costs.

S. S. Sandhawalia, C.J.—I agree.

K.T.S.

Before S. S. Sandhawalia C.J. and S. S. Dewan, J.

BIRLA COTTON SPINNING AND WEAVING MILLS LTD. ETC.—

Petitioners

versus

STATE OF HARYANA ETC.,—*Respondents.*

Civil Writ Petition No. 1648 *of* 1976

August 9, 1978.

Haryana General Sales Tax Act (20 of 1973)—*Sections* 1(3) *and* 2(c)—*Definition of 'dealer' amended with retrospective effect—Goods not taxable under the pre-existing law made taxable thereby—Such retrospectivity—Whether constitutional—Retrospectivity to provisions of taxing statutes—Whether permissible only to clear ambiquities or fill up lacunae—Length of the period of retrospectivity—Whether relevant to determine its constitutionality.*

Held, that the retrospectivity given to the definition of 'dealer' in section 2(c) of the Haryana General Sales Tax Act, 1973 was an attempt to effectuate and to make clear what, according to the Legislature, was its true intent in imposing taxes on goods which it was undoubtedly

entitled to do. The tenor of the legislation, therefore, was to remove what, according to it was an ambiguity in the statute and the doubts that had been created by some conflict of authorities in interpreting its provisions and to plug the loopholes whereby goods, which according to the Legislature were exigible to sales tax or purchase tax had escaped the net because of the said interpretation. In other words, the retrospectivity had been given primarily to remove what in the eye of the Legislature was an ambiguity created in the statute by interpretation and to plug the loopholes and to provide for the lacunae which, according to it, had allowed taxable items of goods to escape the revenue levy. On these premises a retrospective operation of the definition of 'dealer' in section 2(c) is well within the rule of "small repairs" and thus equally within the ambit of constitutionality. (Para 14)

Held, that even an altogether fresh levy of tax with a retrospective effect is also wholly within the competence of the Legislature. That being so, when the Legislature is competent to amend the definition of the dealer prospectively, it follows *a fortiorari* that it can do so with equal competence retrospectively.

(Para 15)

Bengal Paper Mill Co. Ltd. and another v. *Commercial Tax Officer, Calcutta and others*, 38 Sales Tax Cases 163 DISSENTED FROM.

Held, that the length of the period of retrospective operation, whether a short one or a long one, even extending beyond a decade does not attract the vice of unconstitutionality. (Para 20)

Petition under Articles 226/227 of the Constitution of India praying that a writ of Certiorari or any other suitable writ, order or direction be issued to the following effect :—

(*i*) *the records of the case may be sent for;*

(*ii*) *the order of the Assessing Authority dated 18th December, 1975, Annexure P/1 be quashed;*

(*iii*) *the notice Annexure P/3 by which further proceedings are threatened in respect of penalty also be quashed;*

(*iv*) *that ad-interim relief be granted to the petitioners and respondents be restrained from recovering the tax and penalty from the petitioners till the disposal of the writ petition by the High Court;*

(*v*) *to issue ad-interim order restraining the respondents from proceeding with the notice Annexure P/3;*

(vi) *to dispense with the service of notice of motion as there is not sufficient time for service of notice of Motion on the respondents who have fixed 29th March, 1976, as the last day for making payment.*

(vii) *to dispense with the production of certified copies of documents Annexures P/1 to P/4.*

It is further prayed that costs of the petition may also be allowed to the petitioners.

H. L. Sibal, Senior Advocate with R. C. Dogra and G. S. Chawla, Advocates, *for the Petitioners.*

S. C. Mohunta, A. G. with Naubat Singh, Senior D.A.G., *for the Respondents.*

S. S. Sandhawalia, C.J.

(1) The primary and indeed the sole question that has been agitated in this set of 15 connected writ petitions is:—

> Whether the retrospective effect given to the definition of a "dealer" in section 2(c) of the Haryana General Sales Tax Act, 1973, with effect from the 7th of September, 1955, by virtue of the first clause of sub-section (3) of section 1 thereof suffers from the vice of unconstitutionality ?

(2) Learned counsel for the parties are agreed that the questions of law and fact are identical and this judgment will govern all the 15 writ petitions. As is manifest, the question aforesaid is pristinely legal and, therefore, it would be unnecessary even to advert to the bare outline of the facts which, however, are not in serious dispute in any one of the writ petitions. It, therefore, suffices to advert to the facts in Civil Writ Petition No. 1645 of 1976 in which the main arguments have been addressed.

(3) Messrs Birla Cotton Spinning and Weaving Mills Limited and another, petitioners, mainly carry on the business of manufacture of cloth and yarn in Cotton Spinning and Weaving Mills and also operate a number of cotton-ginning and pressing factories. The petitioners are registered dealers under the Punjab General Sales Tax Act and the writ petition was directed primarily against the sales-tax assessment made against petitioner No. 2. The Assessing

Authority, Hissar, by its order Annexure P-1, dated the 18th of December, 1975, assessed the total amount of tax against the petitioners at a little over two lakhs of rupees and after taking into account the tax already deposited had issued a Demand Notice for the balance.

(4) In the writ petition, two questions were initially raised, the first being with regard to the constitutionality of Schedule "D" read with section 17 of the Haryana General Sales Tax Act, 1973. Learned counsel for the petitioners, however, frankly concede that this question is now wholly covered against them by the recent Division Bench judgment in *M/s Rattan Das Madan Lal* v. *State* (1). No arguments have, therefore, been addressed at all on the point. Following the aforesaid judgment, we accordingly uphold the constitutionality of Schedule "D" to the Act.

(5) Therefore, the sole issue that now survives is the one formulated at the very opening of this judgment. In order to appreciate the contentions raised in this context, it is first necessary to cursorily go through the mass of legislative amendments with regard to the definition of the dealer in the sales-tax law within the State of Haryana. The predecessor statute to the present Act was the Punjab General Sales Tax Act, 1948. On the formation of the State of Haryana on 1st November, 1966, the said Act was extended to the State of Haryana as well. At that time, "dealer" stood defined under section 2(d) thereof as follows:—

> "'Dealer' means any person including a Department of Government who in the normal course of trade sells any goods that are actually delivered for the purpose of consumption in the State of Punjab, irrespective of the fact that the main place of business of such person is outside the said State and where the main place of business of any such person is not in the said State, 'dealer' includes the local manager or agent of such person in Punjab in respect of such business."

However, the State of Haryana effected an amendment in the aforesaid definition by the Haryana Ordinance No. 2 of 1971 with effect from the 26th of May, 1971, whereby the words "that are

(1) CW 612 of 1974 decided on 1-8-1978.

actually delivered for the purpose of consumption" were omitted from the definition aforesaid. Then followed the enactment Haryana General Sales Tax Act, 1973 (hereinafter referred to as the Act) which repealed entirely the Punjab General Sales Tax Act as applicable to Haryana and herein "dealer" was defined in section 2(c) thereof as follows:—

> "'dealer' means any person including a department of Government who in the normal course of trade, whether with or without a profit motive, directly or otherwise, whether for cash, deferred payment, commission, remuneration or other valuable consideration purchases, sells, supplies or distributes any goods in the State, or imports into or exports out of the State, any goods, irrespective of the fact that the main place of business of such person is outside the State and where the main place of business of such person is not in the State, includes the local manager or agent of such person in the State in respect of such business."

It is evident from the above that this definition by and large adopted the definition contained in section 2(d) of the Punjab General Sales Tax Act as amended by the Haryana Ordinance No. 2 of 1971 with effect from May 26, 1971, and made applicable to the State of Haryana. By the relevant item in section 1 of the Act, the afore-quoted definition of the "dealer" under section 2(c) has been made retrospective with effect from September 7, 1955.

(6) Perhaps for academic interest, it may also be noticed that there have even been subsequent amendments of the same provisions,—*vide* Haryana Act No. 9 of 1976 and the Haryana Act No. 44 of 1976. Detailed reference to the changes introduced by these amendments is unnecessary because the counsel are agreed that these amendments are not attracted to the situation as they are not retrospective and the relevant assessments under attack are not prior to the year 1973 and the statutory provisions applicable thereto are only those of the Haryana General Sales Tax Act, 1973, as originally enacted.

(7) Now, without going into the intricacies of the language of each provision as well as the variety of amendments introduced in the definition of the word 'dealer', the broad sweep of the law under section 2(d) of the Punjab General Sales Tax Act, 1948, and

the successor provision, namely, section 2(c) of the Haryana General Sales Tax Act, 1973, may be noticed. The counsel themselves concede that the simple position that emerges herein is that prior to the enactment of the Haryana General Sales Tax Act, 1973, and the consequent retrospectivity given to section 2(c), a 'dealer' under the previous law who, after purchase, exported the same goods out of the State of Haryana was not liable to tax. In sum, therefore, the effect of the retrospective provision is that those goods which were not earlier taxable by virtue of the existence of the words "that are actually delivered for the purpose of consumption", have now become exigible to tax by virtue of the retrospective effect given to the amended definition of the dealer.

(8) To narrow down the arena of controversy, it may now be noticed that the galaxy of the learned counsel on behalf of the petitioners conceded without exception that the Legislature was competent and fully entitled to amend the definition of the dealer in the Sales Tax Act prospectively. It is admitted that it was within the ambit of its powers to levy tax on goods absolutely without any condition with regard to the export thereof or the mode or manner of its consumption within the State. That being so, the sole issue that survives for decision is this : Could the Haryana Legislature amend the definition of 'dealer' under section 2(c) with retrospective effect in order to make goods taxable which under the pre-existing law were not within the net of taxation ?

(9) Though long and eloquent arguments were addressed to us on the harsh and unreasonable burden of levying taxes retrospectively on goods which at the time of their actual sale or purchase were not so exigible to tax, it appears to us that in so far as this Court is concerned, the issue is so well covered by the binding precedents of their lordships of the Supreme Court that it would be worse than wasteful to start examining these contentions as if the point was *res integra* or one of first impression. It, therefore, suffices to notice the contentions raised on behalf of the petitioners and to meet them with what appears to us as the categoric observations of the final Court.

(10) Mr. Sibal's first and primary argument was that at least so far as taxing statutes are concerned, retrospectivity to the provisions can be given only to the limited extent of either removing an

ambiguity in the earlier legislation or to provide for a lacuna which may come to notice in the statute. To put it in the rather picturesque language of an American author, the Legislature, according to him, was entitled to make only "small repairs" by way of an amending or a validating Act with retrospective effect. According to this stand, there was no power in the Legislature to make an altogether fresh levy and tax retrospectively what was not so under the law at the relevant time. Reliance was placed by the learned counsel on the observations of Khanna, J., speaking for the Supreme Court in *Krishnamurti and Co.*, v. *State of Madras and another*, (2). However, the main case relied upon by Mr. Sibal was the Division Bench judgment of the Calcutta High Court in *Bengal Paper Mill Co. Ltd. and another* v. *Commercial Tax Officer, Calcutta, and others*, (3). The latter judgment whereby their lordships struck down the retrospective operation of the definition of the word "business" in the West Bengal Taxation Laws (Amendment) Act, 1969, does lend a modicum of support to the contentions raised by Mr. Sibal.

(11) At the very outset, I may say that the weight of binding precedents does not enable me to agree with the contention that the competency of the Legislature to tax retrospectively is limited only to the removal of ambiguities, lacunae or plugging loopholes in taxation law by the passing of merely consequential amending or validating Acts. However, before I advert to this aspect of the case, it appears to me that even accepting the argument of the learned counsel for the petitioners, they can hardly succeed because the backdrop of the amendments here is a clear pointer to the fact that the Haryana Legislature in any case was attempting to clarify and settle what appeared to be patent ambiguities either already existing therein or being the resultant effect of the interpretations placed by a number of judgments thereon. In effect, therefore, it can well be said that the Haryana Legislature was merely making small repairs to the law by giving retrospectivity to the definition of the dealer and to clarify and settle the law with regard thereto.

(12) Mr. S. C. Mohunta, learned Advocate General of Haryana, has rightly pointed out that even with regard to the unamended provisions of section 2(d) of the Punjab General Sales Tax Act, 1948, the interpretation placed by the Haryana taxing tribunals was that

(2) 31 Sales Tax Cases 190.
(3) 38 Sales Tax Cases 163.

assessees were liable to tax with regard to goods which had been exported from the State, and also pertaining particularly to the petitioners' case, with regard to cotton which had been purchased by them, ginned and baled within the State and exported thereafter. This interpretation and application of the statute by the taxing authorities, however, did not find favour with this Court and a learned Single Judge in *Usha Cotton Ginning and Pressing Factory, Bhucho* v. *The State of Punjab and another*, (4), took the view that no tax was leviable for goods sent out of the State and consequently quashed the challenged assessment orders. It was further opined that in view of the definition of the dealer, it has to be found out with regard to each transaction whether the assessee was a dealer or not and he would be liable to pay tax only if in connection therewith he is a dealer as defined in section 2(d) of the Punjab General Sales Tax Act, 1948. Aggrieved by this interpretation, the State appealed against the aforesaid judgment. The letters patent appeal along with a number of other civil writ petitions remained pending for some time and were later disposed of by the Division Bench on the 8th of December, 1971, by the judgment reported in *The State of Punjab and another* v. *Aryavarta Industries Pvt. Ltd.*, (5). It was during the pendency of the appeal and the connected writ petitions that the Haryana Government made the necessary amendment in the definition of the dealer by omitting the material words "that are actually delivered for the purpose of consumption" by the Haryana Ordinance No. 2 of 1971, dated the 26th of May, 1971. According to the learned Advocate General, this was done to clear the ambiguity and fill in the lacuna which had surfaced in the law and also to meet the construction placed by the Court in *Usha Cotton Ginning and Pressing Factory's case* (supra) whereby the exported goods and ginned cotton had been taken out of the tax net. Then in the Haryana Government Gazette (Extraordinary), dated the Ist of August, 1971, whilst converting the Punjab General Sales Tax (Haryana Amendment) Ordinance No. 2 of 1971, into a corresponding Act, the statement of objects and reasons clearly indicated the intent of the Legislature in promulgating the same, amongst others, as follows:—

> "Certain consequential amendments were also brought in order to implement the measure. The definition of the

(4) 1970 P.L.R. 929.

(5) 30 Sales Tax Cases 200.

term 'dealer' has also been amended to make it up-to-date in view of the recent judicial pronouncements in which it has been held that in order to become a 'dealer', it is not necessary that a person should actually deliver the goods for purpose of consumption. This Bill seeks to convert the said Ordinance into an Act."

Mr. Mohunta rightly contends that the reference to the judicial decisions mentioned in the objects and reasons include therein the *Usha Cotton Ginning and Pressing Factory's case* (supra) and apparently to the pendency of other civil writs with regard to the ginned cotton.

(13) It is then noticeable that the letters patent appeal against the *Usha Cotton Ginning and Pressing Factory's case* (supra) as also the identical points in a number of other connected writ petitions with regard to ginned cotton were decided by the Letters Patent Bench in *Aryavarta Industries case* (supra). This upheld the view in *Usha Cotton Ginning and Pressing Factory's case* (supra) and further extended it to hold that the ginning of cotton within the State also did not bring it within the tax net. A perusal of that judgment shows the ambiguities which the then existing Sales Tax law contained and the conflict and flux of judicial decisions with regard thereto. Reference in this context is again made by Mr. Mohunta to the earlier Supreme Court judgment in *Anwarkhan Mahboob Co.* v. *The State of Bombay (now Maharashtra) and others*, (6), wherein it was observed as follows:—

"Reverting to the instance of cotton, mentioned above, it will be proper to hold that when raw cotton is delivered in State A for being ginned in that State, it is delivered for consumption in State A; when ginned cotton is delivered in State B for being spun into yarn, it is delivered for consumption in State B; when yarn is delivered in State C for being woven into cloth in that State, it is delivered for consumption in State C; when woven cloth is delivered in State D for being made by tailor in that State into wearing apparel there is delivery of cloth for consumption is State D; and finally when wearing apparel is delivered in State E for being sold as dress in that State, it is delivery of wearing apparel for consumption in State E".

(6) 11 Sales Tax cases 698.

Counsel submitted that by virtue of these observations, the issue of ginned cotton being taxable was still in favour of the revenue. However, in Civil Writ Petition No. 547 of 1971, decided on 30th of November, 1972, Sharma, J., after referring to the said judgment opined that ginning was not consumption within the State and, after referring to the conflict of authorities, followed the *Usha Cotton Ginning and Pressing Factory's case* (supra) and *Aryavarta Industries' case* (supra) and held the ginning to be not exigible to tax. The learned Advocate-General of Haryana contends that it was the aforesaid judgment as also a number of others taking the same view which was taken in *Usha Cotton Ginning and Pressing Factory's case* (supra) and *Aryavarta Industries' case* (supra) which necessitated the decision of the State Government to give retrospectivity to the definition of the dealer which was enacted in section 2(c) of the Haryana General Sales Tax Act, 1973. This was done by virtue of section 1, sub-section (3), item 1 thereof. Learned counsel drew our attention to the short statement of objects and reasons at the stage of introducing the Bill, which is in the following terms:—

> "The experience of the working of the Punjab General Sales Tax Act, 1948, has brought to light certain lacunae and inadequacies. Besides, numerous amendments had been incorporated in the original Act from time to time and great difficulty is being felt by the assessees in understanding, interpreting and applying the provisions of the existing Act. Hence the proposed Bill, which will replace the existing Act".

Mr. Mohunta contended that the lacunae and inadequacies and the difficulties in interpreting and applying the provisions of the Act were the motivating reasons for bringing in the definition under section 2(c) of the Act and then giving retrospectivity to it to clear the cobwebs. Counsel's stand was that apparently "included" in the host of precedents on the point was the view taken in Civil Writ Petition No. 547 of 1971 as also other judgments taking the same view which it was the intent of the Legislature to meet and in necessary cases to override.

(14) Now viewed in the aforesaid perspective, it appears plain to me herein that the necessary legislation and the retrospectivity given to the definition of the dealer in section 2(c) was again an attempt to effectuate and to make clear what, according to the

legislature, was its true intent in imposing taxes on goods which it was undoubtedly entitled to do. The tenor of the legislation, therefore, was to remove what, according to it, was an ambiguity in the statute and the doubts that had been created by some conflict of authorities in interpreting its provisions, and to plug the loopholes whereby goods, which according to the Legislature were exigible to sales tax or purchase tax, had escaped the net because of the said interpretation. Once it is so, it appears to be plainly plausible and correct that the retrospectivity had been given primarily to remove what in the eye of the Legislature was an ambiguity created in the statute by interpretation and to plug the loopholes and to provide for the lacuna which, according to it, had allowed taxable items of goods to escape the revenue levy. On these premises, a retrospective operation of the definition of dealer in section 2(c) is well within the rule of "small repairs" and thus equally within the ambit of constitutionality, even on the basis of the contentions raised by the learned counsel for the petitioners. On this ground, in the first instance, I am compelled to uphold its constitutionality.

(15) Nevertheless, it appears to me that the learned Advocate-General of Haryana is on equally firm ground that even an altogether fresh levy of tax with a retrospective effect is also wholly within the competence of the Legislature. Reliance for this primarily on *The Government of Andhra Pradesh and another* v. *Hindustan Machine Tools Ltd.*, (7), and in particular, on two categoric Supreme Court decisions reported in *Hira Lal Rattan Lal* v. *Sales-tax Officer, Section III, Kanpur, and another*, (8) and *The District Controller of Stores, Northern Railway, Jodhpur* v. *The Assistant Commercial Taxation Officer*, (9). A combined reading of these judgments appears to leave me in no manner of doubt that binding precedents have laid down that a Legislature which is competent to levy a tax in prospect is equally capable of levying the same in retrospect. That being so, once it is conceded on behalf of the petitioners, as it was very fairly done at the ouset, that the Haryana Legislature was competent to amend the definition of the dealer prospectively, it follows *a fortiori* that it can do so with equal competence retrospectively. Whilst adverting to *Hira Lal Rattan Lal's case* (supra), it deserves pointed notice that it was decided by a larger Bench which included all the three Hon'ble Judges who had earlier opined in *Krishnamurthi's*

(7) A.I.R. 1975 S.C. 2037.

(8) 31 S.T.C. 178.

(9) 37 Sales Tax cases 423.

case (supra) on the 5th September 1972. However, the judgment in *Hira Lal Rattan Lal's case* (supra) was rendered shortly thereafter on the 3rd of October, 1972 and, as already noticed, by a larger Bench including all the learned Judges to constitute it. Their lordships in *Hira Lal Rattan Lal's case* (supra) were clearly more than well aware of the tenor and the ratio in the earlier case.

(16) In *Hira Lal Rattan Lal's case* (supra), it was pointedly noticed that the challenge to the constitutionality of the provisions was expressly on the ground that no fresh levy can be imposed by retrospective legislation. Rejecting such a contention in language which appears to us categoric and not capable of any two constructions, it was held by Hegde, J., speaking for the Bench as follows:—

> "The source of the legislative power to levy sales or purchase tax on goods is entry 54 of List II of the Constitution. It is well settled that subject to constitutional restrictions a power to legislate includes a power to legislate prospectively as well as retrospectively. In this regard, legislative power to impose tax also includes within itself the power to tax retrospectively. See *The Union of India* v. *Madan Gopal Kabra*, (10), *M. P. Cundararamier and Co.* v. *The State of Andhra Pradesh and Another*, (11), *J. K. Jute Mills Co. Ltd.* v. *The State of Uttar Pradesh and Another*, (12); *Chhotabhai Jethabhai Patel and Co.* v. *The Union of India and Another*, (13) *and Sri Ramkrishna and Others* v. *The State of Bihar*, (14). In the last-mentioned case it was specifically decided that where the Legislature can make a valid law, it can provide not only for the prospective operation of the material provisions of the said law but it can also provide for the retrospective operation of the said provisions."

(10) (1954) 25 I.T.R. 58 (S.C.).

(11) (1958) 9 S.T.C. 298 (S.C.).

(12) (1961) 12 S.T.C. 429 (S.C.).

(13) (1962) Supp. 2 S.C.R. 1.

(14) (1963) 50 I.T.R. 171 (S.C.).

And again in repelling challenge on the basis of the violation of Article 19(1)(f) and (g) of the Constitution, it was observed as follows:—

> "A feeble attempt was made to show that the retrospective levy made under the Act is violative of article 19(1)(f) and (g). But we see no substance in that contention. As seen earlier, the amendment of the Act was necessitated because of the Legislature's failure to bring out clearly in the principal Act its intention to separate the processed or split pulses from the unsplit or unprocessed pulses. Further the retrospective amendment became necessary as otherwise the State would have to refund large sums of money. The contention that the retrospective levy did not afford any opportunity to the dealers to pass on the tax payable to the consumers, has not much validity. The tax is levied on the dealer; the fact that he is allowed to pass on the tax to the consumers or he is generally in a position to pass on the same to the consumer has no relevance when we consider the legislative competence."

(17) I believe the observations aforesaid are unequivocal and call for no elaboration.

(18) There is no gainsaying the fact that the observations of the Division Bench of the Calcutta High Court in *Bengal Paper Mill's case* (supra) do support the contention of Mr. Sibal, raised on behalf of the petitioners, but it appears to me that the *ratio* and findings of their lordships in the above-quoted Supreme Court cases, so far as this Court is concerned, are categorical and final which leave no scope for us to deviate from the rule laid down by them, even if we thought otherwise.

(19) It deserves pointed notice that the Division Bench of the Calcutta High Court in *Bengal Paper Mill's case* (supra) struck down retrospective operation of the definition of "business" inserted in the West Bengal Act whereby the profit motive therein was dispensed with. In a virtually identical situation, however, their lordships of the Supreme Court in. The District Controller of Stores' case, (supra) have upheld the retrospective effect of the definition of the word "business" in section 2 of the Rajasthan Sales Tax Act, 1954. Affirming the judgment of the Rajasthan High Court, their

lordships of the Supreme Court brushed aside the challenge to the retrospectivity of the amended definition of "business", as follows:—

> "There can be no dispute that the legislature was competent to give retrospective effect to the definition of 'business' introduced by the amending Act."

It is evident that in view of the aforesaid observations, there is no choice for this Court but to dissent from what appears to me as a directly contrary opinion rendered in the Calcutta case.

(20) Lastly, a limb of the argument raised in this context was that if the period of retrospective operation was a short one, the same may perhaps be condoned and pass the muster of constitutionality but if it was an inordinately long one, than it would necessarily suffer from the vice of unconstitutionality primarily because of its length. This was sought to be supported on the basis of a passing observation in *Krishnamurthi's case* (supra) whilst their lordships were viewing the particular statute under challenge. To me, the matter again appears to be concluded by *The District Controller of Stores, Northern Railway, Jodhpur's case* (supra). Therein, apparently the definition in the Rajasthan Sales Tax Act, 1954, was amended and given retrospective effect for a period of more than 11 years, in 1965. As already noticed, their lordships considered the issues so plain and beyond challenge as to brush aside all arguments against it rather summarily. If retrospectivity beyond a decade, as held in that case, was free of any unconstitutional vice, one fails to see how it can be otherwise in the present case as well. All the contentions raised on behalf of the petitioners having been repelled, this set of writ petitions is hereby dismissed. The parties will, however, bear their own costs.

(21) In passing, it may be mentioned that some of these writ petitions also sought the quashing of the relevant assessment orders. Admittedly, against the said orders, the statutory remedy by way of appeal, revision and reference is available to the petitioners and they must consequently be relegated to the same. If the provisions of section 58 of the Constitution (42nd Amendment) Act, 1976, are attracted to the case of any one of the petitioners, he would obviously be at liberty to pursue the said remedy.

N. K. S.