IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: February 27, 2019
Judgment delivered on: February 28, 2019

+ W.P.(C) 2042/2019, CM No. 9551/2019

MR. JAIRAM RAMESH ..... Petitioner

Through: Mr. P. Chidambaram, Sr. Adv. with
Mr. Muhammad Ali Khan,
Mr. Abhishek Jebaraj,
Mr. Vikramaditya Singh,
Mr. Omar Hoda, Mr. Jaspal Singh,
Ms. Namrah Nasir, Mr. Sparsh Prasad
and Mr. Gaurav Gupta, Advs.

versus

UNION OF INDIA AND ORS ..... Respondents

Through: Ms. Maninder Acharya, ASG with
Mr. Amit Mahajan, CGSC,
Ms. Mallika Hiramath, Mr. Sahil Sood,
Mr. Harshul Choudhary & Mr. Viplav
Acharya, Advs.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

J U D G M E N T

V. KAMESWAR RAO, J

CM No. 9551/2019 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 2042/2019

1. This writ petition has been filed by the petitioner, a Member of Rajya Sabha, with the following prayers:-

> *"In light of the aforesaid facts and circumstances and in the interest of justice, it is most humbly prayed that this Hon'ble Court kindly be pleased to:-*
>
> *a. Issue a Writ in the nature of Mandamus or any other appropriate writ, order or direction so as to declare and set aside sections 145, 146, 147, 148, 149, 150 and 151 of the Finance Act, 2015, Section 232 of the Finance Act, 2016 and Section 208 of the Finance Act, 2018 as ultra-vires the Constitution of India;*
>
> *b. Pass any other directions or orders as deemed fit by this Court.*

2. It was the submission of Mr. P. Chidambram, learned Senior Counsel appearing for the petitioner that the ***Prevention of Money Laundering Act, 2002*** ('PML Act' in short) was enacted on January 17, 2013 for the purposes of preventing the offence of money laundering and the confiscation of property derived from such offence. Before the year 2015, the Act was amended on various occasions through Ordinary Bills as defined under Article 109 of the Constitution of India. However, from the year 2015 most amendments to the *PML Act* have been enacted via Finance Acts as 'Money Bills', defined under Article 110(1) of the Constitution.

3. According to him, a Money Bill is deemed to be such if it contains only provisions dealing with all or any of the matters under (a) to (g) of Article 110(1). In other words, a Money Bill is restricted only to the specified matters and cannot include within its ambit any other matter. In support of his submission, he had drawn our attention to page 62 of the petition, which is an information given to the applicant, who sought information under Right to Information Act.

4. It was his submission that the amendments were made in the years 2015, 2016 and 2018 and *per-se* unconstitutional and liable to be set aside. On a specific query from the Court about the justiciability of the issue raised by the petitioner in the present petition, Mr. Chidambram submitted that the Constitution Bench in ***Justice K.S. Puttaswamy (Retd.) and Anr. v. Union of India and Ors. W.P(Civil) No. 494/2012,*** wherein a similar issue was raised with regard to the Adhar Act as the same was passed as a Money Bill, has settled the issue, wherein the Supreme Court in para 405 held that the decision of the Speaker on whether a Bill is a Money Bill or not, is justiciable.

5. That apart, on a specific query from the Court why the petitioner, being a Parliamentarian is challenging the

amendments effected in the years 2015, 2016 and 2018 now in the year 2019, Mr. Chidambram submitted that the petitioner was not aware that such Bills were passed as Money Bills. It is only, after the information was taken under Right to Information Act, the picture became clear that the amendments of 2015, 2016 and 2018 were passed as Money Bills. That apart, it is only recently that Supreme Court in ***Justice K.S. Puttaswamy (Retd.) and Anr. (supra)*** has decided a similar issue. According to him, there is no issue of limitation in challenging a parliamentary enactment, more so when the amendments are unconstitutional. It was also his submission that this Court may exercise its discretionary jurisdiction in favour of the petitioner as the amendments are unconstitutional.

6. On the other hand, Ms. Maninder Acharya, learned Additional Solicitor General for the Union of India stated that the present petition challenging the amendments effected in the years 2015, 2016 and 2018, that too at the behest of a person, who is not affected by the amendments, must not be entertained. She relied on the judgment of the Supreme Court in the case reported as ***(2004) 6 SCC 254 Kusum Ingots & Alloys Ltd. v. Union of India and Anr.***

7. Having heard the learned counsel for the parties and considered the record, there is no dispute that the petitioner herein is a Member of Rajya Sabha. The plea of Mr. Chidambram that the petitioner was not aware that such amendments have been carried out as Money Bills, is no reason to challenge the amendments, at least of the years 2015 and 2016 in the year 2019. In any case, merely because the petitioner came to know recently that such amendments have been carried out as Money Bills, would not justify the delay.

8. Even otherwise, his submission that it was only after the judgment was rendered by the Supreme Court, on a similar issue, did the petitioner thought it fit to challenge the amendments of 2015, 2016 and 2018 by filing this petition, does not answer the submission made by Ms. Acharya that the challenge, apart from being hit by delay and laches, is by a person who has no locus, being not aggrieved by the amendments. Ms. Acharya is justified in relying on the judgment of the Supreme Court in ***Kusum Ingots & Alloys Ltd. (supra)*** wherein, in para 21 the Supreme Court held as under***:-***

> *"21. A parliamentary legislation when receives the assent of the President of India and published in an Official Gazette, unless specifically excluded, will*

apply to the entire territory of India. If passing of a legislation gives rise to a cause of action, a writ petition questioning the constitutionality thereof can be filed in any High Court of the country. It is not so done because a cause of action will arise only when the provisions of the Act or some of them which were implemented shall give rise to civil or evil consequences to the petitioner. A writ court, it is well settled would not determine a constitutional question in vacuum."

9. We do not think that it is a case where this Court should exercise its extraordinary jurisdiction under Article 226 of the Constitution of India.

10. The writ petition is dismissed. No costs.

V. KAMESWAR RAO, J

CHIEF JUSTICE

FEBRUARY 28, 2019*/ak*