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T.D. VENKATA RAO

v.

UNION OF INDIA

DECEMBER 8, 1998

B

[S.P. BHARUCHA AND V.N. KHARE, JJ.]

C

Income Tax Act, 1961: Section 44(AB)—“Chartered Accountants” and “Income Tax Practitioners”—Auditing of accounts—Entitling only Chartered Accountants and not income tax practitioner from auditing the accounts of assessee—Validity of—Held, Chartered Accountants by training have special aptitude in the matter of audits—Thus it is reasonable that they who form a class by themselves should be required to audit the accounts—No violation of Articles 14 and 19—Constitution of India, 1950: Articles 14 and 19.

D

The appellant challenged the validity of Section 44(AB) of the Income Tax Act, 1961 which entitles only Chartered Accountants to audit the accounts of persons whose business income exceeds Rs. 40 lacs and professionals whose income exceeds Rs.10 lacs. The Income Tax Practitioners who are authorised representatives of assessees were excluded from auditing the accounts. High Court rejected the challenge. Hence the present appeal.

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Dismissing the appeal, this Court

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HELD: Chartered Accountants, by reason of their training have special aptitude in the matter of audits. It is reasonable that they, who form a class by themselves, should be required to audit the accounts of businesses whose income exceeds Rs.40 lacs and professionals whose income exceeds Rs.10 lacs in any given year. There is no material on record, and indeed, there cannot be, that an Income Tax Practitioner has the same expertise as a Chartered Accountant in the matter of accounts. Thus the challenge under Article 19 fails. However, the Income Tax Practitioners are still entitled to be authorised representatives of assessees. [419-G-H; 420-A]

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2824 of 1992.

H

From the Judgment and Order dated 29.8.89 of the Madras High Court in W.P.No 3709 of 1985.

A.T.M Sampath for the Appellant.

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K.N. Shukla and B.K. Prasad for the Respondent.

The Judgment of the Court was delivered by

BHARUCHA, J. The appellant is not represented, though we have waited from some time. The appeal is, therefore, dismissed with no order as to costs.

B

Restored.

We have heard learned counsel for the appellant. The appellant challenged the validity of Section 44 (AB) of the Income-Tax Act, 1961 in so far as it required every person carrying on business, if his total sales, turnover or gross receipts exceeded Rs. 40 lacs, and every person carrying on a profession, if his gross receipts exceeded Rs. 10 lacs, in any previous year "to get his accounts of such previous year audited by an accountant before the specified date". The Explanation to the Section defines "Accountant" for its purpose to have the same meaning as in the Explanation below Section 288(2). Section 288 deals with authorised representatives. Sub-section (2) clause (4) refers to an Accountant. The explanation says that in that Section "Accountant" means a Chartered Accountant within the meaning of the Chartered Accountancy Act and includes persons entitled to be appointed to act as auditors of companies in a particular State by reasons of the provisions of Section 226(2) of the Companies Act.

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The challenge is on behalf of the Income Tax Practitioners. It is submitted that they are entitled to be authorised representatives on behalf of the assesseees and that excluding them for the purpose of auditing accounts as aforesaid violates Articles 14 and 19 of the Constitution. The High Court in the order under challenge, as other High Courts had done, rejected the challenge and, in our view, rightly so.

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Chartered Accountants, by reason of their training have special aptitude in the matter of audits. It is reasonable that they, who form a class by themselves, should be required to audit the accounts of businesses whose income exceeds Rs. 40 lacs and professionals whose income exceeds Rs. 10 lacs in any given year. There is no material on record, and indeed, in our view, there cannot be, that an Income Tax Practitioner has the same expertise as Chartered Accountants in the matter of Accounts. For the same reasons, the

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A challenge under Article 19 must fail, and it must be pointed out that these Income Tax Practitioners are still entitled to be authorised representatives of assesseees.

The appeal is, therefore, dismissed, with costs.

B S.V.K.

Appeal dismissed.