

1967

Present : T. S. Fernando, J.

**P. P. G. DAVID, Petitioner, and THE GOVERNMENT
AGENT, HAMBANTOTA, Respondent**

S. C. 243 of 1967—Application for Revision in M. C. Tangalle, 33456

Interpretation of statutes—Amendment of a statute by a statute dealing with a variety of subjects—Validity—Effect of repeal of a statute on proceedings initiated prior to such repeal—Interpretation Ordinance (Cap. 2), s. 6 (3)—Heavy Oil Motor Vehicles Taxation Ordinance (Cap. 249), as amended by Acts Nos. 20 of 1961, 37 of 1964 and s. 22 of Act No. 2 of 1963—Finance (Special Provisions) Act, No. 10 of 1965, s. 2.

A statute relating to a particular subject may be amended by a subsequent statute covering a wide range of subjects. Accordingly, the amendment of section 2 of the Heavy Oil Motor Vehicles Taxation Ordinance by section 22 of the Finance (No. 2) Act No. 2 of 1963 is valid.

Section 6 (3) of the Interpretation Ordinance enables proceedings initiated under the Heavy Oil Motor Vehicles Taxation Ordinance before the latter was repealed by section 2 of the Finance (Special Provisions) Act, No. 10 of 1965, to be carried on and completed as if there had been no repeal.

APPLICATION to revise an order of the Magistrate's Court, Tangalle.

E. B. Vannitamby, for the petitioner.

F. Mustapha, Crown Counsel, for the respondent.

Cur. adv. vult.

August 3, 1967. T. S. FERNANDO, J.—

The proceedings in this case were initiated in the Magistrate's Court on April 20, 1965, when the Government Agent issued a certificate in terms of section 4 (1) of the Heavy Oil Motor Vehicles Taxation Ordinance (Cap. 249) as amended by Acts Nos. 20 of 1961 and 37 of 1964 specifying that a sum of Rs. 4,250 was due from the petitioner in respect of tax on heavy oil motor vehicle No. I. C. 3199 for certain periods between June 1963 to December 1964. On March 17, 1966 the Government Agent issued another certificate in respect of the said sum purporting to be an amended certificate in terms of the said section 4 (1), as amended by Act No. 20 of 1961 and section 22 of Act No. 2 of 1963 read with Order under section 2 (7) of the last mentioned Act published in *Gazette* No. 13,620 of 29th April 1963 and as further amended by Act No. 37 of 1964. The amended certificate appears to have been occasioned by the omission of the Government Agent to refer in the original certificate to the Order and the *Gazette* in which it appears.

The Magistrate directed on July 30, 1966 that the said sum be recovered from the petitioner as though it were a fine imposed upon him. An appeal was presented against this order, but this Court, upholding the contention that no appeal was competent, rejected the said appeal. This revision application sought to question the legality of the Magistrate's Order.

To appreciate the points raised by the petitioner, it is necessary to understand the nature of the relevant legislation. The Heavy Oil Motor Vehicles Taxation Ordinance (Cap. 249) provided for the imposition of a tax on motor vehicles using uncustomed oil as fuel. In view of section 2 of the Ordinance, the tax was to be determined in accordance with the rates prescribed in the First Schedule thereto. Section 4 of the Ordinance provided for tax in default being recovered in the same manner as a fine imposed by a Magistrate's Court upon a certificate issued by the Government Agent. An amendment of the Ordinance effected by section 22 of the Finance (No. 2) Act, 2 of 1963 added a new sub-section (7) to section 2 of the Ordinance providing for the rates prescribed in the First Schedule to the Ordinance being varied by the Minister of Finance from time to time by Order published in the *Gazette*. A variation was effected by Order under section 2 (7) of the Ordinance made by the Minister of Finance and published in *Gazette* 13,620 of 29th April 1963. Shortly put, the effect of that Order was to double the tax prescribed in the said First Schedule. The amended certificate (which is the operative certificate in this case) issued by the Government Agent on March 17, 1966 was designed to recover tax at the enhanced rate.

By section 2 of the Finance (Special Provisions) Act, No. 10 of 1965, the Heavy Oil Motor Vehicles Taxation Ordinance was repealed with effect from January 1, 1966. The first point raised by the petitioner was that the amended certificate, being one issued after the repeal of the Ordinance (Cap. 249), was of no force or effect. Learned Counsel appearing for him drew my attention to an unreported decision (see Application No. 337/66—M. C. Puttalam 18761) of 7th October 1966 where this Court has held that a Magistrate had no jurisdiction to make an order for attachment of a motor vehicle for non-payment of heavy oil tax after the repeal of the Ordinance came into effect. With much respect, it is apparent that the Court on that occasion failed to consider the application of the Interpretation Ordinance (Cap. 2) to the point that arose before it. Section 6 (3) thereof enabled the proceedings which had been initiated in the case now before me and which were pending when the repealing law came into operation to be carried on and completed as if there had been no repeal. It is in the circumstances unnecessary to consider whether other provisions of the same section 6 (3) also enabled the recovery of the tax to be effected notwithstanding the repeal. The first point relied on therefore failed.

The other point relied on was based on the fact that the doubling of the tax was effected by the Finance (No. 2) Act, 2 of 1963. It was contended that, the tax itself being one imposed by section 2 of the Heavy Oil

Motor Vehicles Taxation Ordinance, what could have been recovered upon a certificate issued in terms of section 4 of that Ordinance was only a tax imposed by the Ordinance itself. This contention failed to give effect to the true nature of the amendment which section 22 of the Act No. 2 of 1963 introduced. That amendment was *intra vires* the powers of the legislature. I did not find it possible in any way to uphold as sound the contention that an amendment of the Heavy Oil Motor Vehicles Taxation Ordinance had to be effected by an Act which expressly declared itself to be an Act to amend that Ordinance. There is nothing to prevent Parliament by one Act validly amending other Acts of Parliament covering a wide range of subjects. Act No. 10 of 1935 is one recent example of the exercise of this power of Parliament and there have always been many such instances. This point was in my opinion quite unsound and I rejected it.

I have set out above shortly the reasons why at the conclusion of the argument I dismissed this application in revision.

Application dismissed.
