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Cultiva La Salud v. State

Court of Appeal, Third District, California - March 27, 2023 - Cal.Rptr.3d - 2023 WL 2642948

Nonprofit organization and member of city council of charter city, in her individual capacity, brought action against state, the Department of Tax and Fee Administration, and the Department's director, alleging that statute that barred local governments, including charter cities, from imposing a tax on sodas and sugar-sweetened drinks and that penalized charter cities for imposing such a tax by depriving them of all sales- and use-tax revenue unlawfully limited charter cities' authority under state constitution's home-rule provision, and seeking declaratory and injunctive relief and a writ of mandate directing the Department not to implement the statute's penalty provision.

The Superior Court, Sacramento County, entered judgment for plaintiffs. Defendants appealed.

The Court of Appeal held that:

- Plaintiffs' facial challenge was ripe for review;
- Challenged statute's penalty provision directed at charter cities was unconstitutional because it used the threat of crippling penalties to chill charter cities from exercising their rights under state constitution's home-rule provision; and
- Penalty provision was not severable.

Under the home-rule doctrine, a charter city's law is not preempted simply because it conflicts with state law, nor is it necessarily preempted even when the legislature explicitly intends preemption; it is instead preempted only when it conflicts with a state law, the state law covers a subject of statewide concern, and the state law is reasonably related to resolution of that concern and narrowly tailored to avoid unnecessary interference in local governance.

Constitutional challenge by nonprofit organization and member of city council to statute that barred local governments, including charter cities, from imposing a tax on sugar-sweetened drinks and that penalized charter cities for imposing such a tax by depriving them of all sales- and use-tax revenue was ripe for review, even though challenge did not involve an actual city tax on sugar-sweetened drinks, where the facts were sufficiently congealed to allow resolution of plaintiffs' facial challenge to statute, and given statute's crippling penalties, it was possible that no charter city would ever enact a tax on sugar-sweetened drinks, in which case statute would evade judicial review altogether if a facial challenge were not allowed.

Penalty provision directed at charter cities in statute barring local governments, including charter cities, from imposing a tax on sugar-sweetened drinks, and penalizing charter cities for imposing such a tax by depriving them of all sales- and use-tax revenue, used the threat of crippling penalties to chill charter cities from exercising their constitutional rights and thus was unconstitutional, where provision served to penalize a charter city only when its imposition of a tax on sugar-sweetened drinks was a "valid exercise" of the city's constitutional home-rule authority.

Penalty provision directed at charter cities in statute barring local governments, including charter cities, from imposing a tax on sugar-sweetened drinks, and penalizing charter cities for imposing such a tax by depriving them of all sales- and use-tax revenue, was not severable, even though statute contained a severance clause, where severing charter-city-specific provision would cause penalty provision to reach not just charter cities but also counties and general-law cities, the legislature had not considered a scheme in which such entities would be penalized for taxing sugar-sweetened drinks, and the appellate court could not say that the legislature would have adopted such a scheme.

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