Administrator Municipal Corporation, ... vs Dattatraya Dahankar And Another on 5 December, 1991

Equivalent citations: AIR1992SC1846, JT1991(4)SC500, 1991(2)SCALE1215, (1992)1SCC361, [1991]SUPP3SCR112, 1992(1)UJ332(SC), AIR 1992 SUPREME COURT 1846, 1992 (1) SCC 361, 1992 AIR SCW 2081, 1992 (1) UJ (SC) 332, (1991) 4 JT 500 (SC), (1992) JAB LJ 96, (1992) 1 RENCR 1, (1992) 1 RRR 198

Author: K. Jagannatha Shetty

Bench: K. Jagannatha Shetty Shetty, R.M. Sahai, Yogeshwar Dayal

ORDER

K. Jagannatha Shetty, J.

1. The question raised in this appeal relates to the construction of Section 127A of the Madhya Pradesh Municipalities Act, 1961, ('The Act'). The relevant portion of Section 127A reads:

> 127A. Imposition of Property Tax-(1) Notwithstanding anything contained in this Chapter, as and from the financial year 1976-77, there shall be charged, levied and paid for each financial year a tax on the lands or buildings or both situate in a Municipality other than class IV Municipality at the rate specified in the table below :
>
> TABLE (i) Where the annual letting 6 per centum of the value exceeds Rs. 1800 but annual letting value does not exceed Rs. 6000 (ii) Where the annual letting 8 1/3 per centum value exceeds Rs. 6000 of the annual but does not exceed letting value Rs. 12000 (iii)Where the annual letting 10 per centum of the value exceeds Rs. 12000 but annual letting does not exceed Rs. 18,000 value (iv) Where the annual letting 15 per centum of the value exceeds Rs. 1800 but annual letting does not exceed Rs. 24,000 value (v) Where the annual letting 20 per centum of the value exceeds Rs. 24,000 annual letting value

2. The property tax levied under Sub-section (1) shall not be leviable in respect of the following properties, namely :

> (a) buildings and lands owned by or vesting in-

(i) the Union Government;

(ii) the State Government;

(iii) the Council;

(b) buildings and lands the annual letting value of which does not exceed eighteen hundred rupees :

Provided that if any such building or land in the ownership of a person who owns any other building or land in the same Municipality, the annual letting value of such building or land shall for the purpose of this clause, be deemed to be the aggregate annual letting value of all buildings or lands owned by him in the Municipality.

2. Sub-section (1) of Section 127A is the charging section. Sub-section (2) provides for exemption. Clause (b) thereof provides that buildings and lands the annual letting value of which does not exceed eighteen hundred rupees are exempt from taxation. The proviso thereunder states that if any such building or land in the ownership of a person who owns any other building or land in the same municipality, the annual letting value of such building or land for the purpose of Clause (b) shall be deemed to be the aggregate annual letting value of all buildings or lands owned by him in the Municipality.

3. The High Court has pointed out that under the scheme of the Act for the purpose of imposition of property tax under Sub-section (1) of Section 127A, each tenement has to be separately assessed and no tax can be levied for a building with annual letting value up to rupees eighteen hundred. The aggregation of annual letting value of all buildings owned by a single individual could be applied only for exemption and not for taxation. The unit of tax is a building (property) and not a person. If a person owns more than one building within the urban area to which the Act is applicable, the aggregate annual letting value of all the buildings cannot be taken into consideration for assessment of tax. If the quarters are let out to different persons, each quarter has to be valued as a separate unit. If the annual letting value of each quarter does not exceed the limit prescribed by the Act, it will be exempt from assessment The High Court relied upon the previous decisions construing the corresponding provisions in the M.P. Sampatti Kar Adhiniyam, 1964. (See: Om Parkash Aggarwal, Indore v. Deputy Property Tax Commissioner, M.P.Gwalior and Ors. 1973 M.P.L.J. 918; National Coal Development Corporation v. State of Madhya Pradesh 1975 M.P.L.J. (NOC) 88; and Nihalkaran v. State of M.P. 1977 J.L.J. 712).

4. It seems to us that the High Court had a mechanical approach to construction. The mechanical approach to construction is altogether out of step with the modern positive approach. The modern positive approach is to have a purposeful construction that is to effectuate the object and purpose of the Act. Section 127A

must, therefore, receive a purposeful construction. Sub-section (1) contains a table for taxation. There is no provision for taxation in respect of a building having annual letting value less than rupees eighteen hundred. Clause (b) of Sub-section (2) expressly exempts buildings and lands, the annual letting value of which does not exceed eighteen hundred rupees. The proviso permits adding up of annual letting value of all such buildings or lands owned by a single individual in the Municipality. The proviso no doubt states that the annual letting value aggregated shall be deemed to be "for the purpose of this clause" meaning thereby for the purpose of Clause (b), that is for exemption. But the purpose of the proviso is to deny exemption to buildings or lands owned by the same person and of which the total annual letting value exceeds rupees eighteen hundred.

5. It is quite true that each building is a unit for the purpose of taxation and there is no provision for taxation of building and land of which the annual letting value is up to rupees eighteen hundred. But when aggregation of annual letting value of all buildings or lands is permitted, then, all such buildings or lands have to be taken as one unit for the purpose of taxation. Any other construction would render the proviso nugatory and defeat the object of the Act. The Legislature could not have intended that all buildings or lands owned by a single individual should get exemption from taxation even if their total letting value exceeds rupees eighteen hundred.

6. The decisions of the High Court taking contrary view cannot be said to have laid down the law correctly.

7. In the result we allow the appeal and set aside the impugned judgment of the High Court. We, however, direct that this decision should be given affect prospectively and there shall not be recovery from or refund to any person with regard to the period antecedent hereto.

8. No costs.