

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Manzoor Ahmad Malik
Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Qazi Muhammad Amin Ahmed

Civil Petitions No.1926-L & 1927-L of 2015.

(On appeal from the judgment of Lahore High Court, Multan Bench dated 02.6.2015, passed in W.P No.4627/2002 & 8421/2002)

Director General Excise and Taxation Lahore etc. *(in CP-1926-L/ 15)*

Province of Punjab through DCO Sahiwal etc. *(in CP-1927-L/ 15)*

...Petitioners

versus

Market Committee, Multan etc. *(in CP-1926-L/ 15)*

Market Committee, Sahiwal *(in CP-1927-L/ 15)*

...Respondents

For the petitioners: Rana Shamshad Khan, Addl.A.G>

For the respondents: Syed Shahid Hussain Shah, ASC
(CP-1926-L/ 15) Mr. Izhar Saleem, Secy, Market Committee

For the respondents: Nemo. *(CP-1927-L/ 15)*

Date of hearing: 08.05.2019

JUDGMENT

Syed Mansoor Ali Shah, J.- Through this consolidated judgment, the titled cases are decided as they raise common question of law and facts.

2. Respondents (Market Committees) challenged the demand of tax raised by the petitioners (Department) under the Punjab Urban Immovable Property Tax Act, 1958 ("Act") for a period, before and after, the year 2002. Respondents have argued that as a "Market Committee" they stand exempt from tax under section 4(b)(ii) of the Act and placed reliance on *Province of Punjab v. Market Committee* (2011 SCMR 1856). While the case of the Petitioners is limited to the period after the amendment brought about in section 4 of the Act through Punjab Finance Ordinance, 2002 ("Ordinance") when the said exemption was no more available.

3. We have heard the learned counsel for the parties and have examined the law. Section 4 before the amendment in 2002 stood as follows:

"4. **Exemptions.**—The tax shall not be leviable in respect of the following properties, namely:-

- (a) ...
 - (b) buildings and lands other than those leased in perpetuity;
 - (i) vesting in Government of West Pakistan and not administered by a local authority.
 - (ii) owned or administered by a **local authority** when used exclusively for public purposes and not used or intended to be used for purposes of profit,"
- (emphasis supplied)*

Market committees enjoy exemption from tax under the above un-amended section 4(b)(ii) of the Act as has already been settled by this Court vide judgment dated 21.7.2011 in the case of *Province of Punjab v. Market Committee* (2011 SCMR 1856), wherein it was held that the Market Committee falls within the definition of "Local Authority," and is, therefore, exempt from tax under section 4(b)(ii) of the Act. The impugned judgment correctly follows that judgment of this Court cited above to hold that the market committee is exempt from the chargeability of tax prior to the amendment brought through the Ordinance. The impugned judgment, however, does not discuss the liability of tax after the said amendment.

3. The Ordinance amended section 4(b) of the Act and replaced it in the following manner:

"4. **Exemptions.**—The tax shall not be leviable in respect of the following properties, namely:-

- (a) ...
- (b) **buildings cafe/lands other than those leased in perpetuity, owned and administered by the Government of the Punjab or a local government as defined in section 2 clause (xvi) of the Punjab Local Government Ordinance, 2002 (XIII of 2001).**" *(emphasis supplied)*

After the amendment the term "local authority" has been deleted and exemption is only available to Government of the Punjab or to a local government as defined under the Local Governments

Ordinance, 2001. Market committee does not fall into either of the two. Therefore, respondents are liable to pay tax under the Act after the amendment in section 4(b) of the Act brought about through the Ordinance on 25.6.2002.

4. Faced with this situation, learned counsel for the respondents submits that the petitioners should have filed an intra court appeal before the High Court under section 3 of the Law Reforms Ordinance, 1972 instead of approaching this Court directly. This argument has little force in the light of section 10 of the Act, which provides for an appeal before the authority, especially when the name of the respondents is wrongly included in the valuation list, prepared for the purposes of collection of tax.

5. For the above reasons we hold that the respondents are liable to pay tax under the Act after the amendment in section 4(b) of the Act w.e.f 25.06.2002, therefore, both these petitions are converted into appeals and partially allowed.

Judge

Judge

Judge

Announced.
Lahore,
15th May, 2019.

Judge

Approved for reporting.

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