

Chandroji Rao vs Commissioner Of Income-Tax, M.P. ... on 28 April, 1970

Equivalent citations: 1970 AIR 1582, 1971 SCR (1) 422, AIR 1970 SUPREME COURT 1582

Author: A.N. Grover

Bench: A.N. Grover, J.C. Shah, K.S. Hegde

PETITIONER:
CHANDROJI RAO

Vs.

RESPONDENT:
COMMISSIONER OF INCOME-TAX, M.P. NAGPUR

DATE OF JUDGMENT:
28/04/1970

BENCH:
GROVER, A.N.
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GROVER, A.N.
SHAH, J.C.
HEGDE, K.S.

CITATION:
1970 AIR 1582 1971 SCR (1) 422
1970 SCC (2) 23
CITATOR INFO :
D 1972 SC 260 (23)
RF 1992 SC1495 (20,33)

ACT:
Indian Income-tax Act, 1922-Capital and Revenue
Compensation Payable itnder s. 8 of Madhya Bharat
Abolition of Jagir Act, 1951--Payable in 10 years in
annual instalments-Interest on compensation whether taxable
as revenue receipt-Marginal notes, value of.

HEADNOTE:
The appellant was a Jagirdar of the erstwhile Gwalior State
which marged in the State of Madhya Bharat (now Madhya
Pradesh).The Madhya Bharat Abolition of Jagir Act 1951

abolished Jagirs with effect from December 4, 1952. Under s. 8 of the Act compensation was payable in accordance with the principles laid down in Schedule 1 of the Act, Under sub-section (2) of that section the compensation payable became due as from the date of the resumption of the Jagir. Simple interest was payable at 2 1/2 per cent per annum from that date up to the date of payment of the amount of compensation which was payable within a period of 10 years in annual instalments. The appellant claimed before the income-tax Officer that the amount of interest formed part of the compensation and constituted a capital receipt. Tile claim was disallowed by the Income-tax Officer as well as by the Appellate Assistant Commissioner. The Tribunal, however, held that the amount of interest was a capital receipt which could not be included in the assessee's income. In reference, the High Court held against the appellant. In appeal to this Court by special leave.

HELD : Under S. 8 of the Jagir Act the compensation amount is determined in accordance with the principles laid down in Schedule I became due to the Jagirdar from the date of resumption. Since the entire amount was not to be paid on the date of the resumption but was to be paid by instalments extending over 10 years, a provision had to be made for the payment of interest in sub-s. (2). The amount of interest was thus given to the Jagirdar for being kept out of the compensation amount for the aforesaid period. The legislature being well aware of the distinction between compensation and interest, employed clear language which leaves no room for doubt that, under sub-s. (2) interest was payable in a well understood sense and it could never form part of the compensation. [425 E-H]

The fact that the marginal heading of s. 8 was 'Duty to pay compensation' could not lead to a different conclusion. The marginal heading cannot control the words of a section, particularly, when the language is clear and unambiguous. [425 C]

Dr. Sham Lal Narula v. Commissioner- of Income-tax, Punjab Jammu & Kashmir, Himachal Pradesh and Patiala, 53 I.T.R. 151, applied.

JUDGMENT:

CIVIL APPELLATE JURISDICTION : Civil Appeals Nos. 505 to 508 of 1967.

4 2 3 Appeals by special leave from the judgment and order 'dated April 20, 1965 of the Madhya Pradesh High Court in Misc. Civil Case No. 89 of 1964.

N. D. Karkhanis, P. W. Sahasrabuddhe and A. G. Ratnaparkhi, for the appellant (in all the appeals).
Gobind Das and R. N. Sachthey, for the respondent (in all the appeals).

The Judgment of the Court was delivered by Grover, J. These appeals by special leave from a common judgment of the Madhya Pradesh High Court arise out of references made by the Income-tax Appellate Tribunal relating to the assessment years 1956-57, 1957-58, 1958-59 and 1961-

62. The appellant who is the assessee was a jagirdar of the erstwhile Gwalior State. By the Madhya Bharat Abolition of Jagir Act 1951, hereinafter called the "Act", the jagirs were abolished with effect from December 4, 1952. Under s. 8 of the Act compensation was payable to him in accordance with the principles laid down in Schedule 1. Under sub-s. (2) of that section the compensation payable became due as from 'the date of the resumption of the jagir. Simple interest was payable at the rate of $2\frac{1}{2}\%$ per annum from that date upto the date of payment of the amount of compensation which was payable within a period of ten years in annual instalments. The assessee maintained that the amount of interest formed part of the compensation and constituted a capital receipt. The Income-tax Officer held against the assessee and included the interest in his income. The Appellate Assistant Commissioner took the same view. The appellate tribunal, however, held that the amount of interest was a capital receipt and could not be included in the assessee's income. The following question was referred to the High Court by the tribunal "Whether on the facts and in the circumstances of the case the interest that was received on the amount of compensation 'paid for resumption of the assessee's jagir was a capital receipt?"

The High Court answered the question in the negative and against the assessee.

The relevant provisions of the Act may be noticed. Section 3(1) provided that the Government shall, by notification, appoint a date for the resumption of all jagir lands in the State. Section 4 gave the consequences of the resumption of jagir land., Chapter III headed "compensation" commenced with s. 8 which reads "(1) Duty to pay compensation.-Subject to other provisions of this Act the Government shall be liable to pay to every Jagirdar whose Jagirland has been resumed under Sec. 3, such compensation as shall be determined in accordance with the principles laid down in Schedule 1.

(2) Compensation payable under this section shall be due as from the date of resumption and shall carry simple interest at 'the rate of $2\frac{1}{2}\%$ per annum from that date up to the date of payment :

Provided that no interest shall be payable on any amount of compensation which remains unpaid for any default of the Jagirdar, his Agent or his representative-in-interest. Under s. 12 every jagirdar whose jagir land had been resumed under s. 3 had to file in the prescribed form a statement of claim for compensation before the Jagir Commissioner within two months from the date of resumption. On receipt of a statement of claim the Jagir Commissioner was to determine the amount of compensation payable to the Jagirdar under s. 8 as also the amounts recoverable from him under s. 4 (1)

(e) and other matters mentioned in the section 13. Under s.

14 the :amount recoverable from a Jagirdar was to be deducted from the compensation payable to him under s. 8. Section 15 provided for payment of compensation money. According to sub-section (1) after the amount of compensation payable to Jagirdar under s. 8 had been determined and the amount deducted from it under s. 14, the balance was to be payable in maximum ten annual instalments. Under sub-s. (4) payment of compensation money to a Jagirdar etc. was to be a full discharge of the Government from the liability to pay compensation in lieu of resumption of the jagir lands.

The argument on behalf of the assessee was based principally on the marginal heading of s. 8 which is "Duty to pay compensation". It has been contended that the interest payable formed part of the compensation money. It has further been pointed out that ss. 13, 14 and 15 of the Act did not make any distinction between the payment dealt with by sub-s. (1) and sub-s. (2) of s. 8 and described both these payments as compensation Payable to a jagirdar. Similarly under s. 15(4) it was the payment of compensation money which included interest that operated as a full discharge of the liability of the Government to pay compensation. In our opinion the High Court rightly rejected these contentions. Section 8(2) clearly, provided that compensation shall be due as from the date of resumption. Thus the amount of compensation became ascertained and payable from the date of resumption. The provision for interest was made simply because the compensation was to be paid in ten annual instalments. A clear distinction has been made between the compensation payable under sub-s. (1) and the interest which is payable under sub-s. (2). The compensation has to be determined in accordance with the principles laid down in Schedule 1. That Schedule indicates that the determination of compensation had nothing to do with the payment of interest. The marginal heading cannot control the interpretation of the words of the section particularly when the language of the section is clear and unambiguous. This Court has held in *Dr. Sham Lal Narula v. Commissioner of Income-tax, Punjab, Jammu & Kashmir, Himachal Pradesh & Patiala*(1), that the statutory interest paid under s. 34 of the Land Acquisition Act 1894 on the amount of compensation awarded for the period from the date the Collector has taken possession of the land compulsorily acquired is interest paid for the delayed payment of the compensation and is, therefore, a revenue receipt liable to tax under the Income-tax Act. As has been pointed out in that decision the legislature has expressly used the word interest with its well known 'Connotation in the relevant statutory provision and it is therefore reasonable to give that expression the natural meaning it bears. The same principle would be applicable to the present case. It is apparent that under s. 8 of the Act the compensation amount as determined in accordance with the principles laid down in Schedule I became due to the jagirdar from the date of resumption. Since the entire amount was not to be paid on the date of the resumption but was to be paid by instalments extending over ten years a provision had to be made for the payment of interest in sub- s. (2). The amount of interest was thus given to the jagirdar for being kept out of the compensation amount for the aforesaid period. The legislature being well aware of the distinction between compensation and interest thereon employed clear language which leaves no room for doubt that under sub s.(2) interest was payable in its well known and well understood sense and it could never form a part of, the compensation money.

There is no merit in these appeals which are dismissed with costs. One hearing fee Appeals dismissed-

G.C. (1) 53 I.T.R. 151.