# Pandit Ram Narain vs The State Of Uttar Pradesh Andothers on 20 September, 1956

## Equivalent citations: 1957 AIR 18, 1956 SCR 664, AIR 1957 SUPREME COURT 18, 1957 ALL. L. J. 1, 1956 SCJ 725, 1957 BLJR 52, ILR 1956 2 ALL 695

## Author: S.K. Das

## Bench: S.K. Das, Natwarlal H. Bhagwati, Syed Jaffer Imam, P. Govinda Menon

PETITIONER:
PANDIT RAM NARAIN

Vs.

RESPONDENT:
THE STATE OF UTTAR PRADESH ANDOTHERS.

DATE OF JUDGMENT:
20/09/1956

BENCH:
DAS, S.K.
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DAS, S.K.
BHAGWATI, NATWARLAL H.
IMAM, SYED JAFFER
MENON, P. GOVINDA

CITATION:
1957 AIR 18 1956 SCR 664

ACT:
Tax on circumstances and property--U.P. Town Areas Act, 1914 (U.P. Act II of 1914)-S 14(1)(f)-Nexus-Whether residence within Town Area necessary condition for imposition of tax -Tax imposed under clause (f) of s. 14(1) whether can be justified under clause (d)-Rule 3 whether invalid.

HEADNOTE:
The appellant was carrying on business, but was not residing within the Town Area of Karhal. The Town Area Committee imposed a tax of Rs. 25 on him under clause (f) of a. 14(1) of the U.P. Town Areas Act, 1914, being a tax on 'circumstances and property'. The appellant filed a writ application in the High Court on the ground that there could

be no assessment under clause (f) because he resided outside the jurisdiction of the Town Are& Committee. The High Court dismissed the application taking the view that it was unnecessary to consider whether the tax could be legally imposed under clause (f) as the tax imposed could clearly be justified under clause (d) of s. 14(1) which authorised the imposition of a tax on trades, callings or professions.
Held, that residence was not a sine qua non for the imposition of the tax under clause (f), that the carrying on of 'business within the Town Area was a sufficient nexus for the imposition of the tax under clause (f) and that the assessment of the tax on the appellant under clause (f) was legally valid.
The legality of the tax imposed must be considered with reference to the clause under which the assessment was actually made and a different clause under which the assessment might have fallen cannot be called in aid of the assessment.
Rule 3 of the 'Rules regarding the Limitations, Restrictions and Rate subject to which the Circumstances and Property Tax shall be levied by the Town Area Committees' framed under s. 39(2) of the Act does not go beyond s. 14(1)(f) and is not invalid.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 224 of 1955.

Appeal by special leave from the judgment and order dated the 7th May 1954 of the Allahabad High Court in Civil Miscellaneous Writ No. 133 of 1952.

Naunit Lal for the appellant.

G. C. Mathur and C. P. Lal for respondents Nos. I & 2. 1956. September 20. The Judgment of the Court was delivered by S. K. DAS J.-This is an appeal by special leave from the judgment and order of the High Court of Judicature at Allahabad dated the 7th of May 1954 by which the High Court dismissed an application of the appellant for the issue of a writ of certiorari under the provisions of article 226 of the Constitution. The appeal raises the question of the validity of the assessment of a tax on the appellant for the year 1950-51 by the Town Area Committee of Karbal under the provisions of clause (f) of sub-section (1) of section 14 of the United Provinces Town Areas Act, 1914 (U. P. Act II of 1914), hereinafter referred to as the Act.

The appellant resides in the town of Mainpuri and carries on the business of plying a motor bus on hire. The appellant's bus plies on. alternate days between Etawah and. Mainpuri, and the town of Karhal falls on the route between Etawah and Mainpuri. . It is not now disputed that passengers travelling in the appellant's bus used to get down or get in at a bus stand within the town area of Karhal; the appellant had a booking office situate within the Town Area and tickets were issued to passengers and an account of the business was maintained in the said booking office. The Town

Area Committee of Karhal imposed a tax of Rs. 25 on the appellant for the year 1950-51 under the provisions of clause (f) of sub-section (1) of section 14 of the Act, being a tax on 'circumstances and property' and assessing the income of the appellant from his business within the Town Area of Karhal at a sum of Rs. 800 for the year. The appellant preferred an appeal against the assessment of the tax under section 18 of the Act, and the grounds taken by the appellant were (1) that he did not reside within the limits of the Town Area and (2) that he did not carry on any trade or business within that Area. By his order dated the 20th October 1951' the Appeal Officer held that the appellant carried on his trade or business within the limits of the Town Area and was therefore rightly assessed to tax under clause (f) of sub-section (1) of section 14 of the Act. He accordingly dismissed the appeal. It may be stated here that the appellant was asked to submit an account of his income, but no such account was submitted and the assessing officer worked out the income of the appellant at about Rs. 67 a month, that is, about Rs. 800 a year. No question about the amount of the tax has been raised before us, and it is not necessary to say anything further with regard to the quantum of assessment.

The appellant then filed a writ application in the High Court of Judicature at Allahabad and the ground taken by him was that there could be no assessment under clause (f) of sub-section (1) of section 14 of the Act, because he resided outside the jurisdiction of the Town Area. The learned Judge, who dealt with the. application of the appellant, took the view that the tax imposed on the appellant could clearly be imposed under clause (d) of sub-section (1) of section 14 of the Act; therefore it was unnecessary to consider whether the tax could be legally imposed under clause (f) of sub-section (1) of section 14. The learned Judge also expressed the view that residence within the Town Area was not a pre-requisite condition for the imposition of the tax under clause (d), and it was enough if the appellant carried on a trade or business within the Town Area. On these views, the learned Judge dismissed the writ application.

The main point which has been urged before us by learned counsel for the appellant is that the assessment of a tax under clause (f) of sub-section (1) of section 14 on the appellant was. not valid, because residence within the Town Area was a necessary condition for the assessment of a tax under clause (f). Learned counsel also argued before us that the. assessing authority having assessed a tax on the appellant under clause (f), it was not open to the High Court to say that the tax was legally valid under a 'different clause, namely clause (d) of sub-section (1) of section 14.

With regard to his second point, learned counsel has drawn our attention to sections 15 to 17 of the Act. He has pointed out that under section 15 of the Act a list of persons liable to pay the tax imposed under section 14 and of the amounts to be paid respectively by such persons, has to be prepared; the list may be revised by the District Magistrate and has to be submitted to him for confirmation. When so confirmed., the list can only be altered under sub- section (2) of section 15 by the District Magistrate or in pursuance of an order passed in appeal under the provisions of section 18. We think that learned counsel has rightly submitted that, so far as the present appellant is concerned, the list prepared under section 15 must have shown him as assessed to a certain amount of tax under clause (f) of sub-section (1) of section 14 and the assessment must have been confirmed on that basis by the District Magistrate. Therefore, the legality of the tax imposed on the appellant must be considered with reference to the clause under which the assessment was actually made, and

a different clause under which the assessment might have fallen cannot be called in aid of the assessment. We proceed therefore to consider the legality of the tax imposed on the appellant with reference to clause (f) of sub-section (1) of section 14 of the Act. The short point for consideration in that context is whether residence within the Town Area is a necessary condition for the imposition of the tax under clause

(f). It is necessary -to read here section 14 of the Act so far as it is relevant to the point in question.

> "14 (1) Subject to any general rules or special orders of the State Government in this behalf, the taxes which a Committee may impose are the following:
>
> (d) A tax on trades, callings or professions not exceeding such rates as may be prescribed.
>
> (f) A tax on persons assessed according to their circumstances and property not exceeding such rate and subject to such limitations and restrictions as may be prescribed: , Provided that such a person is not already assessed under clauses (a) to (e) above".

It will be noticed that the power of the Town Area Committee to impose a tax under clause (f) is subject to,' first, 'any general rules or special orders of the State Government in this behalf' and, secondly, to (such limitations and restrictions as may be prescribed'. These restrictions and limitations are to be found in the Rules made by the State Government under section 39(2) of the Act, which are called Rules regarding the Limitations, Restrictions and Rate sub- ject to which the Circumstances and Property Tax shall be levied by the Town Area Committee. These rules were notified by Notification No. 681-T/IX-79T-50 dated July 20, 1950. Two of the rules are important for our purpose, viz., rules 2 and 3. They are in these terms:

> "2. The tax shall be assessed on every person on whom it is imposed, in two separate parts, namely (1) on his circumstances and (2) on the property, if any, owned by him, and the aggregate of the sums so determined on both the counts shall constitute the total composite amount payable by him as circumstances and property tax:
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> Provided that nothing shall render it irregular to assess a person on only one' of the two 'counts aforementioned if he does not fulfil the conditions for liability in respect of that count on which he is not assessed.
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> 3. (1) The tax assessed on the circumstances of an assessee may be imposed on any person residing or carrying on business within the limits of the town area:
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> Provided that such person has so resided or carried on business for a total period of at least six months in the year of assessment.

(2) No tax shall be imposed on any person whose total taxable income is less than Rs. 200 per annum. (3) The rate of the tax shall not exceed one anna in a. rupee on total taxable income.

(4) The total amount of tax assessed on any person shall not, in any year, exceed a sum of s. 250.

Explanation.-(1) For purposes of this rule 'taxable income' means gross income accruing within the limits of the town area.

(ii) The words 'carrying on business' mean the carrying on of any trade, profession, calling or other practice or activity which yields or is capable of yielding income but do not include service under Government or a local body". The important point which emerges out of these Rules is that under Rule 3 the tax assessed on the circumstances of an assessee may be imposed on any person residing or carrying on business within the limits of the town area; in other words, two, conditions in the alternative are laid down in Rule 3, either the person must reside within the limits of the town area or he must be carrying on business within the limits of the said area. There is a third condition that the residence or carrying on of business must be for a total period of at least six months in the year of assessment. No question regarding the third condition has been raised in this case and it is not necessary to consider that condition here. Therefore, it is clear that if Rule 3 is valid, then the imposition of the tax on the appellant under clause (f) is also valid, because on the finding not now in dispute the appellant carried on a trade or business within the limits of the Town Area of Karhal. It has been argued before us that Rule 3 is invalid because, under clause (f) of sub-section (1) of section 14, residence within the Town Area of the person to be taxed under that clause is a necessary condition. We are unable to accept this argument. Clause (f) of sub-section (1) of section 14 does not say in express terms that residence within the Town Area is a necessary condition for the imposition of the tax. The Rules make it quite clear that for each of the clauses of sub-section (1) of section 14 there is a 'nexus' between the territorial jurisdiction of the Town Area Committee and the imposition of the tax. So far as clause (d) is concerned, the 'nexus' is that the trade, calling or profession must be carried on within the limits of the Town Area. So far as clause (f) is concerned, Rule 3 makes it quite clear that the 'nexus' is either resi- dence within the limits of the Town Area or carrying on business within the same limits. It is to be remembered that clause (f) was inserted -by an Amending Act, namely, the Uttar Pradesh Town Areas (Validation and Amendment) Act, 1950. Section 1(2) of the Amending Act gave retrospective effect to the amendments. The proviso to clause (f) makes it quite clear that a person who is already assessed under clauses (a) to (e) cannot be assessed again under clause

(f). The proviso is intended to avoid multiple taxation, but it is manifest from the proviso that ,there may be overlapping of the different clauses in sub-section (1) of section 14; for example, a person may come under clause (d) as well as clause (f) if he carries on a trade within the limits of the Town Area. Therefore, the proviso was necessary to prevent the same person being taxed more than once under the different clauses of sub-section (1) of section 14. If residence within the limits of the Town Area were a sine qua non for the imposition of a tax under clause (f), no question of overlapping between clauses (d) and (f) would arise unless the person to be taxed resided as well as carried on a

trade within the limits of the Town Area. If the argument of learned counsel for the appellant is correct, then the proviso to clause (f) is meaningless in so far as it envisages an overlapping between clause (d) and clause (f) in other cases. On a proper construction of clause (f), read with the limitations and restrictions embodied in the Rules made under section 39 of the Act, it cannot be held that residence within the Town Area of Karbal was a necessary condition for the imposition of the tax on the appellant.

A reference, was made to sub.;section (4) of section 15-A of the Act. Section 15-A provides for preliminary proposals for the imposition of taxes under section 14, publication of such proposals and the submission of draft rules. Sub- section (4) states:

> "(4) Any, inhabitant of the Town Area may, in the prescribed manner, file an objection in writing on such proposals and the committee shall take into consideration the objections so filed and finally settle its proposals."

Under sub-section (4) any inhabitant of the Town Area may file an objection to the preliminary proposals for the imposition of taxes under section 14. The argument before us was that if an inhabitant of the Town Area alone was entitled to file an objection to preliminary proposals for taxation, then in all the, clauses of sub-section (1) of section 14 residence within the Town Area must be read as a necessary condition for the imposition of the taxes under section 14. This contention appears to us to be unsound. Firstly, the objection as, to preliminary proposals for taxation is not the same thing as objection to an assessment, and it may well be that the legislature in their wisdom thought fit to confine the filing of objections to preliminary proposals for taxation to the inhabitants of the Town Area. Secondly, there are several other sections of the Act, such as section 20 and section 21, which show that the imposition of a tax on persons not resident within the Town Area. but having some other nexus within that Area, was permissible. Thirdly, the question of the validity of sub-section (4) of section 15-A does not arise in this case. The appellant was assessed to a tax and he had a right to file an appeal which right he exercised. No grievance was made of the failure to exercise the right under subsection (4) of section 15-A. It is therefore un- necessary for us to make any pronounce ment on the validity or otherwise of sub-section (4) of section 15-A All that is necessary for us to state is that by reason of sub-section (4) of section 15-A, it cannot be held that residence within the Town Area is a necessary condition for the imposition of a tax in all the clauses of sub-section (1) of section 14 of

-the Act.

Learned counsel for the appellant referred us to two decisions of 'the Allahabad High Court: District Board, Farrukhabad v. Prag Dutt(1) and District Board, Dehra Dun v. Damodar Dutt(2). The second decision, which was earlier in point of time, arose out of a suit for recovery of 'circumstances and property tax under the U. P. District Boards Act (Local Act X of 1922). The question there was whether the District Board of Dehra Dun could impose a tax on the defendants who were not residents within the area of the District Board. It is worthy of note that under section 114 of the U. P. District - Boards Act, the power of a Board to impose a tax on circumstances and 'property is subject to the condition that the tax may be imposed on any person residing or carrying on business in the

rural area within the District Board. The only question in that Allahabad case was whether the defendants resided within the rural area of the District Board so as to make them liable for the. tax. The finding Was that they did not reside within the rural area and therefore the imposition of (1) A.I.R. 1948 All. 382.

(2) I.L.R. [1944] All. 611.

the tax was illegal, and section 131 of the U. P. District Boards Act did not bar the suit. This decision does not help the appellant. If it shows anything, it shows that it was open to the District Board to impose a circumstances and property' tax on any person residing or carrying on business in the rural area.

In the 1948 Allahabad decision, the main question was whether the provisions of section 2, Professions Tax Limitation Act (20 of 1941) affected the powers conferred upon the District Board by section 108 of the U.P. District Boards Act to levy a tax on circumstances and property'. A subsidiary question was also raised, whether section 131 of the U. P. District Boards Act barred the suit. With regard to the main question, it was pointed out that the name given to a tax did not matter; what had to be considered was the pith and substance of it. It was held that in pith and substance the tax was one which attracted the provisions of section 2, Professions Tax Limitation Act (20 of 1941). A tax on 'circumstances and property' is a composite tax and the word 'circumstances'. means a man's financial position, his status as a whole depending, among other things, on his income from trade or business. From militating against the principle that in considering the circumstances of a person his income from trade or business within the Town Area may be taken into consideration, the decision approves of the principle. In the course of his judgment, Bind Basni Prasad J. referred to section 128, U.P. Municipalities Act, 1916, where 'taxes on circumstances and property' appear as a head distinct from the 'taxes on trades, callings and vocations and employments' and the argument was that the taxes being under different heads should be treated as being entirely different, one from the other It was rightly pointed out that it is no sound principle of construction to interpret expressions used in one Act with reference to their-use in another Act. The meanings of words and expressions used in an Act must take their colour from the context in which they appear. It is true that in the Act under our consideration the taxes which the Town Area Committee may impose appear under different heads in Sub-section (1) of section 14. We have already stated that though the clauses are different, the words used in the section show that there may be overlapping between the different clauses, and to prevent the same person being subjected to multiple taxation, a 'proviso was incorporated in clause (f). In view of the words and expressions used in section 14 of the Act, we cannot accept the argument that clause (f) should be read as entirely independent of and unconnected with the other clauses and a different condition, namely residence within the-Town Area, must be read as a necessary part of clause (f). To do so will be to read in clause (f) words which do not occur there. The limitations for the imposition of a tax under clause (f) are given in Rule 3 and 'residence'is only one of the alternative conditions for the imposition of the tax-not a line qua non as is contended by learned counsel for the appellant.

In the result, we hold that the assessment of the tax on the appellant under clause (f) of subjection (1) of section 14 of the Act was legally valid. The appeal fails and is dismissed with costs.