

Punjab National Bank vs New Delhi Municipal Committee on 22 December, 1972

Equivalent citations: 1973 AIR 674, 1973 SCR (3) 169, AIR 1973 SUPREME COURT 674, 1973 (1) SCC 579, 1974 TAX. L. R. 1779, 1974 (1) SCJ 1, 1973 SCC (TAX) 370, 1973 3 SCR 189

Author: Kuttyil Kurien Mathew

Bench: Kuttyil Kurien Mathew

PETITIONER:
PUNJAB NATIONAL BANK

Vs.

RESPONDENT:
NEW DELHI MUNICIPAL COMMITTEE

DATE OF JUDGMENT 22/12/1972

BENCH:
MATHEW, KUTTYIL KURIEN
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MUKHERJEA, B.K.

CITATION:
1973 AIR 674 1973 SCR (3) 169
1973 SCC (1) 579
CITATOR INFO :
RF 1977 SC2134 (17)

ACT:
Punjab Municipal Act, 1911-S. 66 and 67-Whether NDMC can include a building retrospectively in the assessment list by amendment.

HEADNOTE:
The appellant is the owner of No. 5 Parliament Street, New Delhi. The building was not entered in the assessment list to be operative during April 1, 1958 to March 31, 1959, although it was occupied after completion on July 1, 1968. Under S. 67 of the Punjab Municipal Act, 1911, the NDMC by a resolution dated November 20, 1959 amended the assessment list which was operative for the period April 1, 1959, to

March 31, 1960 and imposed house tax on the building for the year 1959-60.

Section 67 of the Act provides that the Committee may at any time amend the list after giving notice to any person affected by the amendment and Sub. s. (2) provides that any interested person may tender his objection and he shall be given an opportunity of being heard etc.

The only question that arose for decision before this Court was whether the Respondent was entitled to include the building in the assessment list, which was operative for the period April 1, 1959 to March 31, 1960.

Dismissing the appeal,

HELD : (i) The assessment list for the year commencing from April 1, 1959, had to be settled by March 31, 1959, at the latest. This list was liable to be amended under S. 67 even after March 31, 1959, on any of the grounds mentioned in that Section. Sec. 66 does not say that the amendment of the assessment list should have been made before March 31, 1959. The expression "subject to such amendment as may thereafter be duly made" in Sec. 66 would indicate that the amendment of the list could be made even after March 31, 1959 as Sec. 67 provides for amendment of the list "at any time." [193BC]

It is not necessary that the assessment list should have been amended before March 31, 1959, in order that the Municipal Committee may impose house tax on the building for the period from April 1, 1959 to March 31, 1960. An amendment of the list under S. 67 was permissible on any of the grounds mentioned in the Section even after March 31, 1959, as otherwise, the expression "at any time" would have no meaning. [193EF]

(ii) Further, the meaning of the expression "at any time" will depend upon the context in which the expression occurs. The expression "at any time" occurring in S. 67 read with the word "thereafter" in S. 66 can only lead to the conclusion that the amendment of the list in question was permissible even after March 31, 1959. [195A]

Central Bank of India Ltd. Amritsar v. The Hartford Fire Insurance Co. Ltd. A.I.R. 1965 S.C. 1288; Exparte Norris in Re Salder 17 Q.B.D. 728 referred to
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JUDGMENT:

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1315 of 1972.

Appeal by certificate from the judgment and order dated October 28, 1969 of the Delhi High Court at New Delhi in Letters Patent Appeal No. 93 of 1967.

M. C. Chagla, S. K. Mehta and K. R. Nagaraja, for the appellant.

D. D. Chawla, H. K. Puri and S. K. Dhingra, for the respondent.

The Judgment of the Court was delivered by MATHEW, J. The appellant, Punjab National Bank Limited, is the owner of a building bearing municipal No. 5, Parliament Street, New Delhi. After completion of its construction, it was occupied on July 1, 1958. The building was not entered in the assessment list which was to be operative during the period from April 1, 1958 to March 31, 1959. On September 4, 1959, the New Delhi Municipal Committee, the respondent here, purporting to act under s. 67 of the Punjab Municipal Act, 1911, hereinafter referred to as the Act, issued a notice to the appellant stating "This is to inform you that your building mentioned at the back of this letter has been completed and is in fact occupied from 1-7-1958 and ought to be assessed to House tax by amending the list for 1959-60 under section 67 of the Municipal Act, 1911 and this Committee has, vide resolution No. 30 dated 10-7-1959 proposed to amend the list for the year 1959-60 by inserting the said property on an annual value as given at the back of this letter.

"It is further proposed that the tax will take effect from 1-4-1959.

"Notice is hereby given to you under section 67 of the P. M. Act that the Committee will consider the question of the amendment of the list and will hear objections in Meeting Room on 20th day of, November, 1959 at 10.00 A.M."

The appellant objected to the amendment of the list and levy of the tax for the period in question but the objection was over-ruled, and the respondent passed a resolution confirming the proposed assessment on December 21, 1959. Thereafter the respondent sent a bill for the tax for the period. This was followed by a notice of demand.

The appellant filed a suit for permanent injunction restraining the respondent from enforcing the demand on the ground that the respondent had no jurisdiction to include the building in the assessment list. The trial Court decreed the suit. The District Judge, on appeal, agreed with the view of the trial Court and dismissed the appeal. The second appeal filed against his decision was dismissed by a learned single judge of the High Court.. An appeal was filed against the judgment of the learned single Judge which came up before a Division Bench of the Court which referred the case to a larger Bench. The Bench, by a majority, set aside the order of the single Judge and dismissed the suit. This appeal, by certificate, is from this decision. The only point that arises for consideration in this appeal is whether the respondent was entitled to include the building in the assessment list which was operative for the period from April 1, 1959 to March 31, 1960, by amending it on November 20, 1959, and impose house tax on the building for the year 1959-60.

Chapter V of the Act deals with taxation. Section 61 specifies the taxes which might be imposed by a Municipal Committee and one such tax is a tax payable by an owner of building and land. Section 62 lays down the procedure for imposition of the taxes mentioned in s. 61. Section 63 deals with the procedure for assessment of tax on immovable property. It provides that the committee shall cause an assessment list of all buildings and lands on which any tax is imposed to be prepared. Section 64 provides that when the assessment list has been completed, the committee shall give public notice thereof. Section 65 provides that the Committee shall, at the time of the publication of the

assessment list, give public notice of a time not less than one month thereafter, when it will proceed to revise the valuation, and assessment, and in all cases in which property is for the first time assessed. or the assessment thereof is enhanced, it shall also give notice to the owner or occupier of the property. The Section further requires that all objections to the valuation shall be made before or at the time fixed in the notice. Section 66 provides for the settlement of the list and it states :

"66. Settlement of list-(i) After the objections have been enquired into and the persons making them have been allowed an opportunity of being heard either in person or by authorized agent as they may think fit, and the revision of the valuation and assessment has been completed, the amendments made in the list shall be .authenticated by the signatures of not less than two members of the Committee who shall at the same time certify that no valid objections has been made to the valuation and assessment contained in the list, except in the case in which amendments have been entered therein, and subject to such amendments as may thereafter be duly made, the tax so assessed shall be deemed to be the tax for the year commencing on the first day of January or first day of April next ensuing as the Committee may determine, or in the case of a tax then imposed for the first time for the period between the date on which the tax comes into force and such first day of January or April, as the case may be. "(2) The list when amended under this section shall be deposited in the committee's office and shall there be open during office hours to all owners or occupiers of property comprised therein or the authorized agents of such persons, and a public notice that it is so open shall forthwith be published."

Section 67 which provides for further amendment of the assessment list states :

" (1) The Committee may at any time amend the list by inserting the name of any person whose name ought to have been or ought to be inserted, or by inserting any property which ought to have been or ought to be inserted, or by altering the assessment on any property which has been erroneously valued or assessed through fraud, accident or mistake, whether on the part of the committee or of the assessee, or in the case of the tax payable by the occupier by a change in the tenancy, after giving notice to any person affected by the amendment, of a time, not less than one month from the date of service, at which the amendment is to be made.

(2) Any person interested in any such amendment may tender his objection to the committee in writing before the time fixed in the notice, or orally or in writing at that time, and shall be allowed an opportunity of being heard in support of the same in person, or by authorized agent, as he may think fit."

Section 68 confers a discretion on the committee to prepare for the whole or any part of the municipality a new assessment list every year.

The majority was of the view that the amendment of the assessment Est, though made on November 20, 1959, was opera- tive from April 1, 1959, and that the building, was liable to be taxed for the year

which commenced from April 1, 1959, and ended on March 31, 1960. The majority overruled the argument of the appellant that the municipal committee had no jurisdiction to amend the assessment list after the list was finalised on March 31, 1959.

It was contended for the appellant that when once the assessment list was finalized in accordance with the provisions of the Act, the committee had no jurisdiction to amend it thereafter.

We think that the conclusion of the majority is correct. The assessment list for the year commencing from April 1, 1959, had to be settled by March 31, 1959 at the latest; this list was liable to be amended under s. 67 even after March 31, 1959, on any of the grounds mentioned in that section. Section 66 does not say that the amendment of the assessment list should have been made before March 31, 1959. The expression "subject to such amendment as may thereafter be duly made" in s. 66 would indicate that the amendment 'of the list could be made even after March 31, 1959, as s. 67 provides for amendment of the list "at anytime'. And when the list was so amended, it shall be deemed to have been in force for the year which commenced from April 1, 1959, and ended on March 31, 1960, and the tax assessed therein shall be deemed to be the tax for the financial year commencing from April 1, 1959. In other words, it was not necessary that the assessment list should have been amended before March 31, 1959, in order that the municipal committee may impose house tax on the building for the period from April 1, 1959 to March 31, 1960. An amendment of the list under s. 67 was permissible on any of the grounds mentioned in the section even after March 31, 1959, as otherwise, the expression "at any time" would have no meaning. The words "subject to such amendments as may thereafter be duly made" in s. 66 postulate that a list finalized before 1st January or 1st April is liable to be amended thereafter under s. 67. The building was certainly liable to be included in the assessment list which was finalized on March 31, 1959, but by some mistake it was not so included. The list was, therefore, liable to be amended under s. 67. That was done. When the list was amended, the tax assessed for the building shall be deemed to be the tax for it in the year which commenced from April 1, 1959, and ended on March 31, 1960.

We are not impressed by the argument of Mr. Chagla that the expression "at any time" in s. 67 means that the amendment of the assessment list could have been made only before March 31, 1959. We think that the purpose behind s. 67 was to enable the Municipal Committee to amend, the assessment list at any time on any of the grounds mentioned therein. Counsel referred to the decision in *Ex-parte Norris*. In *Re Salder*(1) in support of his (1) 17 Q.B.D. 728.

14-L631Sup.CI/73 contention that the words "at any time" in s. 67 must receive a narrow construction as otherwise there will be no limit of time for the amendment of the list. What happened in that case was that a secured creditor, having stated in his proof the value at which he assessed his security, the trustee gave him written notice that "it was his intention"

to redeem the security so valued, and thereupon applied for and received from the Board of Trade the amount required for such redemption. Before any further step was taken the creditor applied to amend his valuation and proof, the security having increased in value. The Court held that nothing had occurred to prevent the amendment from being allowed. In so holding the Court had to consider the

argument based on rule 13 of the 2nd Schedule to the Bankruptcy Act, 1883, which provided that a creditor may amend the valuation and proof "at any time". Lord Esher M. R., after stating that the Court has no right to diminish the full force of the words "at any time" unless from the Act itself or the Rules it is possible to find some necessary implication to limit the force of the words, observed "That they are to have some limitation cannot, I think, be doubted; it cannot be that the right is to go on for ever. One necessary implication, at all events, I think is, that the right is at an end, if the trustee acting upon the valuation put upon the security by the creditor, has exercised the right given to him by the 12th rule, to redeem the security "on payment to the creditor of the assessed value". It is impossible to suppose that, after the trustee has paid the amount of the valuation, and has thus on behalf of the general body of the creditors become the purchaser of the security, the creditor can undo all that."

The respondent on the other hand submitted that the words "at any time" in s. 67 must be given the widest amplitude as the purpose of s. 67 is to rectify any omission in the list occasioned by the mistake, fraud, accident of the assessee or the Committee as the case may be, and reliance was placed on the decision in the Central Bank of India Ltd., Amritsar v. The Hardford Fire Insurance Co. Ltd.(") where this Court had to construe the expression "This insurance may be terminated at any time at the request of the insured"

occurring in an insurance policy; it was held that the words "at any time" can only mean "at any time the party concerned likes".

We do not think that any universal rule can be laid down as to the meaning of the expression "at any time". It all depends (1) A.I.R. 1965 S.C. 1288.

upon the context in which the expression occurs. We think that the expression "at any time" occurring in s. 67, when read in conjunction with the word "thereafter" in s. 66 can only lead to the conclusion that the amendment of the list in question was permissible even after March 31, 1959. The appellant contended that the building was not included in the list which was operative for the period which commenced from April 1, 1959 and ended on March 31, 1960. We have perused the assessment list produced before us and we are satisfied that the amendment was made by inserting the building in the list which was finalised on March 31, 1959, and which was operative for the period which commenced from 1st April, 1959 and ended on 31st March, 1960. We think that the majority was right in their conclusion and we discuss the appeal but, in the circumstances, make no order as to costs.

S.C.
dismissed.

Appeal