(1994) 05 SC CK 0086

In the Supreme Court Of India

Case No : Civil Appeal Nos. 267-68 Of 1987 With Nos. 1832 Of 1988 And 862 Of 1989

Central Warehousing Corporation APPELLANT

Vs

Municipal Corporation RESPONDENT

Date of Decision : 10-05-1994

Acts Referred:

Citation : (1995) 3 SCC 246 Supp

Hon'ble Judges : R. M. Sahai, J;B. L. Hansaria, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The short and the only question that arises for consideration in these appeals is whether the godowns situated within municipal limits owned by the appellant, a Corporation established under Section 3 of the Warehousing Corporation Act, are liable to pay property tax under the Municipal Corporation Act (in brief ''the Act'') or it is exempt either under Section 135 of the Act or under Article 285 of the Constitution of India.

2. For the latter no factual foundation was laid either before the High court or this court. Property of the Union of India under Article 285 of the Constitution of India is undoubtedly exempt from pavement of tax But whether the property for which exemption is claimed is of Union of India or not is primarily a question of fact. Corporations established under the Act may be an instrumentality of the State yet it has a separate and independent identity. The property owned by the appellant thus could not be held to be property of Union of India either as a matter of law or as a fact.

3. Even the claim that the building was exempt from payment of tax under Section 135 of the Act is misconceived. Relevant parts of the section are extracted below:

"135. Property Tax on what properties to be levied. (1 A property tax at a rate of not less than 6 1/2% and not more than 12 1/2% of the annual value determined under this Ch. shall be imposed by the Corporation upon all lands or buildings or both within the city except the following namely

(A)* * *

(B) building and lands vested in central or State government used solely for public purposes or in the Corporation, in respect of which the said tax, if levied, would under the provisions hereinafter contained be primarily leviable from the central or State government or the Corporation respectively."

A building or land can be exempted from the levy under clause (1 if it not only vests in the Corporation but the tax is also primarily leviable on it by the Corporation. Neither of the conditions are satisfied by the appellant. A Corporation is defined under the Act to mean "the Municipal Corporation". In the absence of any express or implied indication the word ''Corporation'' as provided in the definition clause has to be understood as the Municipal Corporation. Therefore, it cannot apply to a Corporation like the appellant constituted under the Act. Further the latter part of the section makes it clear that it excludes any Corporation other than Municipal Corporation as no tax is leviable by any Corporation except the Municipal Corporation. The appellant, therefore, could not claim that no tax was leviable on the building owned by it.

4. For these reasons, this appeals fails and is dismissed with costs.

5. The appellant challenged the levy of tax by the Municipal Corporation of Mansa under Punjab Municipal Corporation Act, 1976 and claimed that since it was a property of Union of India within the meaning of Article 285 and Section 96 of the Municipal Corporation Act no tax could be levied on it. Facts are more or less identical to those Civil Nos. 267-68 of 1987.

6. For the reasons stated therein, this appeal also fails and is dismissed with costs.

7. The appellant''s godowns were subjected to tax under Tamil Nadu District Municipalities Act, 1920 (for short ''the Act''). The levy was challenged in the High court and it was claimed that the property owned by it being property of Union of India within the meaning of the expression used in Article 285 of the Constitution of India, no tax was leviable on it. It was not accepted be held to be property of the Union of India in absence of any factual foundation either in the High court or this court nor is it liable to be exempted from payment of tax under Section 82 of the Act for the reasons stated by us in Civil Nos. 267-68 of 1987 decided today (supra).

8. In the result, this appeal too fails and is dismissed with costs.

