
(2014) 02 JH CK 0065
In the Jharkhand High Court
Case No : L.P.A. No. 610 of 2008

Chandramoleshwar Chaurasia

APPELLANT

Vs

The Special Officer, Deoghar Municipality

RESPONDENT

Date of Decision : 14-02-2014

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2014) 3 AJR 427 : (2014) 2 JLJR 227

Hon'ble Judges : R. Banumathi, C.J;S. Chandrashekhar, J

Bench : Division Bench

Advocate : Rupesh Singh and Gouri Shankar Prasad, Advocate for the Appellant;
Anil Kumar Jha, Advocate for the Respondent

Judgement

1. Batch of writ petitions were filed which have been dismissed by a common impugned order dated 25.6.2004. Out of the five appeals in hand, four of them are arising out of the common order dated 25.6.2004 whereas L.P.A. No. 292 of 2008 is arising against the impugned order dated 2.7.2008 passed in W.P. (C) No. 6963 of 2002 in terms of the aforesaid common order dated 25.6.2004. Since, common questions of law are involved in all these appeals, with the consent of the parties these appeals were heard together and are being disposed of by a common order.

FACTS:

(i) L.P.A. No. 610 of 2004

The appellant was in possession of the premises situated over Holding No. 19 in Ward No. 13 of Deoghar Municipality, jointly with his two brothers, having an area of approximately 12 x 80 ft. It was stated by the appellant that he had been paying the holding tax since quite long on the basis of the last quarterly assessment of holding tax made in the year 1993-94 to the tune of Rs. 46.61 per quarter before he was asked to pay a revised valuation of holding tax fixed at Rs. 968.25 on quarterly basis vide a notice u/s 115 of the Bihar and Orissa Municipal

Act, 1922 (in short, the Act). It was also stated that the appellant filed an application u/s 116 of the Act within one month of receipt of demand notice u/s 115 of the Act for payment of enhanced holding tax of Rs. 968.25 praying therein for rectification of unreasonable enhancement of holding tax of their holdings. It has been alleged that when the respondent-authorities failed to take any decision in the matter, the writ application [W.P. (C) No. 1772/2003] was filed which was dismissed vide order dated 25.6.2004 by the learned Single Judge.

(ii) L.P.A. No. 645 of 2004

The appellant Shanti Chourasia @ Shanti Devi stated that she was in the possession of the premises situated over Holding No. 61 (earlier 44) in Ward No. 6 of Deoghar Municipality having an area of approximately 51 x 48 ft. having ground and two floors. It was further stated that she had been paying her holding tax since quite long on the basis of last quarterly assessment of holding tax made in the year 1993-94 to the tune of Rs. 76.50 only before she was asked to receive a notice u/s 115 of the Act asking to pay a revised valuation of holding tax fixed at Rs. 600/- on quarterly basis. It was further stated that the appellant filed an application u/s 116 of the Act within a month of the receipt of demand notice u/s 115 of the Act for the payment of enhanced holding tax of Rs. 600/- in the office of respondent on 25.5.1998. It has been alleged that the respondent authorities did not take any decision over the application filed by the appellant or deliberately chose not to supply the certified copy of any such decision of the authorities on the application for review for the reasons best known to them. Therefore, the appellant preferred writ petition [W.P. (C) No. 1762 of 2003] which was dismissed.

(iii) L.P.A. No. 646 of 2004

The appellant Dwarika Prasad Chaurasia was in the possession of two different premises in question firstly, situated over Holding No. 71 in Ward No. 13 of Deoghar Municipality, having an area of approximately 11 x 90 ft. added to 12 x 30 ft i.e. ground floor and a hall on the first floor and the another premises situated over Holding No. 72 in Ward No. 13 of Deoghar Municipality having an area of approximately 11 x 90 ft. added to 18 x 36 ft. i.e. ground floor and a hall on the first floor. It was further stated that the appellant had been paying the holding tax since quite long on the basis of last quarterly assessment of holding tax made in the year 1993-94 which came to Rs. 38.25 and Rs. 52.90 respectively on quarterly basis till the impugned notice of demand was raised u/s 115 of the Act to pay revised valuation of holding tax fixed at Rs. 1162.50 each on quarterly basis for both the premises. It was further stated by the appellant that an application was filed u/s 116 of the Act within one month of receipt of demand notice u/s 115 for the payment of the enhance holding tax of Rs. 1162.50 on 5.4.1999. It has further been alleged that the respondents failed to take any decision in the matter till date and have deliberately flouted their statutory obligations subjecting the petitioner to the vagaries of facing the

penalty arising out of the non-payment of wholly arbitrarily assessed/fixed holding tax. It has also been stated that the appellant was served notice for the payment of arrears of the holding tax from the years 1998-99, 2000-01, 2001-02 and 2002-03 for an amount of Rs. 23,250/- and Rs. 22,282/- for the two premises respectively. Therefore, the appellant preferred writ petition [W.P. (C) No. 1774 of. 2003] which was dismissed by the learned Single Judge.

(iv) L.P.A. No. 647 of 2004

The appellant Mira Devi Chaurasia claimed that she was in possession of the premises situated over Holding No. 70, Ward No. 13 of Deoghar Municipality having an area of approximately 24 x 30 ft. It was stated that she was religiously and diligently paying the holding tax fixed at quarterly valuation of Rs. 47.85 before the demand of revised valuation of holding tax fixed at Rs. 775/- on quarterly basis. It has further been alleged that an application u/s 116 of the Act was filed within one month of the receipt of demand, of the revised holding tax of Rs. 775/- u/s 115 of the Act on 5.4.1999 before the Respondent No. 2 praying therein for rectification of unreasonable enhancement of the holding tax and it has been alleged that the respondent authorities failed to take any decision in the matter till date and have deliberately flouted their statutory obligations subjecting the appellant to the vagaries of facing difficulties arising out of non-payment of wholly arbitrarily assessed/fixed holding tax. Therefore, the appellant preferred writ petition [W.P. (C) No. 1775 of 2003] which was dismissed by the learned Single Judge.

(v) L.P.A. No. 292 of 2008

The appellant Taruna Dutta Dwary stated that she was in the possession of the premises situated over Holding No. 95 in Ward No. 4 of Deoghar Municipality. It was further stated that the Holding in question had been reassessed for the year 1994-95 and the holding tax was enhanced and determined as Rs. 13.30 quarterly and again the respondent issued notice dated 1.4.1998 whereby the holding tax of the aforesaid holding had again been reassessed and enhanced as Rs. 176.25 which is said to be 15 times more than the last assessment which is wholly unreasonable and arbitrary assessment without any rational basis, it was further stated that the appellant filed an objection application on 23.5.1998 against the demand notice dated 1.4.1998 for the payment of enhanced holding tax of Rs. 176.25 on quarterly basis before the respondent No. 2 and on the basis of this objection it has been alleged that the Appeal Committee issued so many dates to the appellant to appear on 20.11.2000 but on that day the quorum of Appeal Committee was not completed, hence the matter was taken up by the Appeal Committee but the respondent said that a general order may be passed but no order had been passed or communicated to the appellant. Hence, the appellant filed a writ petition [W.P. (C) No. 6963 of 2002] which was dismissed by order dated 2.7.2008 by the learned Single Judge.

2. From the above facts, it appears that the common grievance of the appellants

is that the concerned Deoghar Municipal Authorities have taken arbitrary decision with respect to the re-assessment of holding tax and further neither any decision was taken on the objection petition filed by the aggrieved appellants nor certified copy, if decision taken, was supplied to the appellants. In nutshell, the grounds of challenge to the impugned order are virtually similar inasmuch as, they relate to identical issues with regard to re-assessment and enhancement of holding tax by the same Municipality. The crux of the grounds raised by the appellants are as under:--

? Deoghar Municipality has arbitrarily enhanced the Municipal Tax which is said to have been confirmed by the Appellate Committee in some of the cases.

? The assessment of the Municipal Tax/holding tax is excessive, unreasonable and unjustified.

? The Municipal Authorities/respondents while increasing the tax have flouted the procedure laid down in the Bihar and Orissa Municipal Act, 1922.

? The Municipal Authorities/respondents acted discriminately in a mala fide manner adopting the policy of pick and choose in the fixation of holding tax.

3. For the sake of convenience, the details of the individual case of the appellants are given below in the tabular form:--

SUBMISSIONS:

4. Mr. Rupesh Singh, the learned counsel appearing for the appellants advanced the argument in L.P.A. Nos. 610. of 2004, 645 of 2004, 646 of 2004, 647 of 2004 and Mr. Gouri Shankar Prasad, the learned counsel appearing for appellant in L.P.A. No. 292 of 2008, adopted the arguments of Mr. Rupesh Singh.

5. The learned counsel appearing for the appellants has assailed the order passed by the learned Single Judge on the following grounds namely, (i) the procedure laid down in the Bihar and Orissa Municipal Act, 1922 (in short "the Act") with respect to assessment of holding tax has not been followed, (ii) no criteria has been disclosed on the basis of which the assessment was made, (iii) the assessment of Municipal Tax/holding tax is excessive, unreasonable and arbitrary besides, being discriminatory, and (iv) no personal notice as required u/s 115 of the Act was served upon the appellants.

6. Per Contra, Mr. Anil Kumar Jha, the learned counsel appearing for respondent-Deoghar Municipality, has submitted that there was no procedural irregularity and the provisions of the Act have substantially been complied with by the respondent-authority and therefore, no interference is required in the matter. It is further submitted that since the appellants failed to produce any document or raise any objection before the Municipal Authority or the Revisional Authority and since they did not even appear before the authority, the plea taken by the appellants alleging non-compliance of the provisions u/s 115 of the Act in so far as, no individual notices were issued to the appellants, is not tenable.

7. Further it has been commonly submitted in the grounds of memo of appeal that:--

(i) The impugned judgment being a common judgment passed in 28 writ petitions heard together as analogous cases appears to suffer from non-application of mind to the merits of the individual case of the appellants independently.

(ii) The impugned judgment failed to appreciate clear instances of discrimination and violation of Article 14 by the Deoghar Municipality/respondent authorities.

DISCUSSION:

8. The issue of re-assessment of holding tax by the Deoghar Municipality authorities in all the five appeals is related to the provisions of law as embodied in Chapter-IV of the Bihar and Orissa Municipal Act, 1922 (in short, the Act) which deals with municipal taxation i.e. imposition of tax. Section 82 deals with the power of the Municipality to impose tax, including holding tax, latrine tax, water tax, education cess, medical cess etc.

9. There are certain restrictions imposed under the Act, such as, restriction on imposition of tax of holdings, as provided u/s 84. Under the said provision the tax of holdings shall not be imposed at a rate, exceeding 12 1/2 per centum on the annual value of the holding. Section 85 puts certain restrictions on the imposition of water and lighting charges which reads as follows:--

85. Restrictions on the imposition of the water and lighting taxes.--(1) The imposition of a water tax or of a lighting tax shall be subject to the following restrictions, namely:--

(a) that the tax shall be imposed only on holding within an area for the supply of water to which, or for the lighting of which, as the case may be, a scheme has been sanctioned by the State Government;

(b) that the tax shall not be imposed on land used exclusively for purpose of agriculture, on any holding consisting only of tanks; or, in the case of the water tax, on any holding no part of which is within a radius to be fixed by the Commissioners at a meeting from the nearest stand-pipe or other supply of water available to the public;

(c) that the rate of the annual value of holdings at which the tax may be imposed shall not exceed twelve and a half per centum in the case of the water-tax, or three per centum in the case of the lighting tax;

(d) that in fixing the rate at which the tax is to be imposed regard shall be had to the principle that the total net proceeds of the tax together with the estimated income from payments for water or lighting, as the case may be, supplied from the works under special contract or otherwise, shall not exceed the amount required for making, extending or maintaining the water-supply or lighting system, as the case may be, together with an amount sufficient to meet the

proportionate share of the cost of supervision and collection as fixed u/s 69 and the repayment of, and payment of interest on, any loan incurred in connection with any such supply or system;

(e) that the tax shall not be leviable until a supply of water has been provided in the area to be supplied, or until the lamps in the area to be lighted have been lighted, as the case may be, in the execution of the scheme adopted under Chapter-IX, nor shall the tax be leviable for any quarter or portion of a quarter antecedent to the provision of such water supply or lighting.

(2) Nothing in the section shall prevent the Commissioners from making any special arrangement consistent with this Act for a supply of water or electric current or gas to persons residing beyond the radius fixed by the Commissioners at a meeting.

(3) With the sanction of the State Government, the amount of the water tax may vary with the distance of holdings from the nearest stand-pipe or other sources of water-supply, and the amount may be higher in the case of premises to which communication pipes are attached than in the case of other premises.

10. Similarly, there are certain restrictions on imposition of latrine tax and drainage tax under Sections 86 and 86-A of the Act, which are quoted hereunder:--

86. Restrictions on the imposition of the latrine tax.--The imposition of the latrine tax shall be subject to the following restrictions, namely:--

(a) that the tax shall be imposed only on holdings containing dwelling houses, latrine, urinals or cesspool, and on holdings containing shops or place of business in which, in the opinion of the Commissioners at a meeting, a latrine, urinals or cesspool is required;

(b) that the Commissioners at a meeting may exempt from payment of the tax any jail, reformatory or lunatic asylum in which an establishment is maintained for the cleaning of latrines, urinals and cesspools therein;

(c) that in fixing the rate at which the tax is to be levied regard shall be had to the principle that the total net proceeds of the tax shall not exceed the amount required for cleansing private and public latrines, urinals and cesspools, and for providing, extending or maintaining public latrines and urinals, together with the amount required to meet the proportionate share of the cost or supervision and collection as fixed u/s 69 and the repayment of, and payment of interest on, any loan incurred in connection with this purpose;

(d) that the tax shall not be leviable in any area until the Commissioners have made provision for the cleansing or private latrines, urinals and cesspools within such area, nor shall the tax be leviable for any quarter or portion of a quarter antecedent to the making of such provision;

(e) that the tax on any holding the valuation of which does not exceed twenty-

five rupees shall not be more than three rupees per annum, and that the tax on any other holding shall not be imposed at a rate exceeding seven and a half per centum on the annual value of the holding except in the Patna City Municipality in which it shall not exceed ten per centum on such annual value.

(f) that the Commissioner at a meeting may impose surcharge at such rates as may be prescribed by the State Government in respect of holdings containing service latrines, that is latrines, which are not water-flush latrines.

86A. Restrictions on the imposition of a drainage tax.--(1) The imposition of a drainage tax shall be subject to the following restrictions, namely:--

(a) that the tax shall be imposed only on holding within an area for which a drainage or sewerage is in operation; and

(b) that the tax shall not be imposed on land used exclusively for purpose of agriculture or on any holding consisting only of tanks;

(c) that rate on the annual value of holdings at which the tax may be imposed shall not without the previous sanction of the State Government, exceed seven and-a-half per centum;

(d) that in fixing the rate at which the tax is to be imposed regard shall be had to the principle that the total net proceeds of the tax shall not exceed that amount required for making, extending or maintaining the drainage or sewerage system and in any area in which a sewerage system has been established in execution of a scheme sanctioned under Chapter-IX or otherwise the amount required for the cleansing of private and public latrines, urinals and cesspools and public water closets and the provision and maintenance of public latrines, urinals and water closets, together with an amount sufficient to meet the proportionate share of the cost of supervision and collections as fixed u/s 69 and the repayment of, and payment of interest on, any loan incurred in connection with any such drainage or sewerage system; and

(e) that the tax shall not be leviable in any area until a drainage or sewerage system has been established within such area in execution of a scheme sanctioned under Chapter-IX, nor shall the tax be leviable for any quarter or portion of a quarter antecedent to the establishment of such system.

(2) Nothing in this section shall prevent the Commissioners from making any special arrangement consistent with this Act for the extension of a drainage or sewerage system to holdings situated beyond the radius fixed by the Commissioners at a meeting.

(3) The Commissioners may with the sanction of State Government exempt classes of holding and holdings in particular areas from liability to the drainage tax or may assess the said tax on such holdings at rates varying in the prescribed manner.

11. Section 98 provides assessment of taxes on the annual value of holdings, as

quoted hereunder:--

98. Annual value of holdings.--(1) The annual value of a holding shall be deemed to be the gross annual rental at which the holding may reasonably be expected to let.

(2) If there be on the holding building or buildings, the actual cost of erection of which can be ascertained or estimated and which is or are not intended for letting or for the residence of the owner himself, the annual value of such holding shall be deemed to be an amount which may be equal to but not exceed, seven and a half per centum of such cost, in addition to a reasonable ground rent for the land comprised in the holding:

Provided that, where the actual cost so ascertained or estimated exceeds one lakh of rupees, the percentage on the annual value to be levied in respect of so much of the cost as in excess of one lakh of rupees shall not exceed one-fourth of the percentage determined by the Commissioners u/s 104.

(3) The value of any machinery or furniture- which may be on a holding, shall not be taken into consideration in estimating the annual value of such holding under this section.

12. Section 101 provides that "when it has been determined to impose any tax to be assessed on the annual value of holdings, the Commissioners, after making such inquiries as may be necessary, shall determine the annual value of all holdings within the municipality as hereinafter provided, and shall enter such value in a valuation list."

13. Section 102 speaks of the procedure for preparing the valuation list. It, inter alia, provides that the Commissioners may, by notice, require the owners or occupiers of all holding to furnish them with returns of the rent of annual value thereof.

14. Section 104 deals with the determination of rate of tax on holdings. The material part of the Section reads as follows:--

Subject to the provisions of clause (iii) of the proviso to sub-section (1) of Section 82 and to the provisions of Sections 84 to 88 inclusively, the Commissioners, at a meeting to be held before the close of the year next preceding the year to which any tax which is assessed on the annual value of holdings will apply, shall determined the percentage on the valuation of holdings at which the tax shall be levied, and the percentage so fixed shall remain in force until the order of the Commissioners determining such percentage shall be rescinded, and until the Commissioners at a meeting shall determine some other percentage on the valuation of holdings at which the tax will be levied from the beginning of the next year;

....

Provided further that the Commissioners shall not without the previous sanction

of the State Government decrease the rate of any tax levied by them.

15. Section 105 provides for preparation of assessment list. It lays down that "as soon as possible after the percentage to which the tax is to be levied for the next year has been determined under the last preceding section, the Commissioner shall cause to be prepared an assessment list" containing particulars enumerated in clauses (a) to (h) of that section.

16. Section 106 while deals with revision and duration of list, which ordinarily to be prepared in the same manner, once in every five years. Section 107 gives the power to the Commissioners to alter or amend the assessment list from time to time in any of the ways, enumerated in clauses (a) to (g) of sub-section (1).

17. Under sub-section (ii) of Section 107 it is obligatory on the part of the Commissioners to give at least one month's notice to any person interested, of any alteration which they propose to make under clauses (a) to (d) and (dd) of sub-section (1).

18. The general assessment by the Deoghar Municipality was taken up in the year, 1988-89 and it was to be revised after five years in the year 1993-94. However, it could not be done within five years of the last assessment and the general assessment was completed in the year, 1998-99 under Sections 82 and 106(1) of the Act. The learned counsel has submitted that before the revisional assessment for the year, 1998-99 started, general announcement through loudspeaker as well as by beat of drum was made by the respondent-authority. The State Government appointed the Assessing Authority who in course of the revisional assessment asked the appellants to produce the documentary evidence including cash-memo, credit-memo, challan and proof of purchase of the cement, concrete, bricks, iron rod, sand, wood etc. used by the appellants in construction of the building. However, the appellants did not produce any evidence and therefore, the Assessing Authority proceeded to assess the valuation of the holding. Notices on different dates were issued to the appellants directing them to pay the holding tax. After receiving the notice, the appellants filed the objection/review application in the prescribed form known as Form-C u/s 116 of the Act. Thereafter, notices were issued to the appellants to appear before the respondent and produce evidence in support of their case however, the appellants did not appear before the respondent-authority and therefore, after perusal of the records, the valuation of the holding was either reduced or confirmed.

19. As pointed out earlier, assessment of valuation was made by the authority who has been duly appointed by the State Government. It is the contention of the Deoghar Municipality that, the enhancement of Holding Tax has been enhanced legally in accordance with law. As noticed earlier, Section 84 deals with restrictions on the imposition of the tax on holding. As per Section 84(1) the tax on holding shall not be imposed at rate exceeding twelve and half per centum on the Annual value of holding. Section 85 deals with restriction on the imposition of

the water and lighting taxes. As per Section 85(c) the rate on the Annual Value of holding at which the tax may be imposed shall not exceed twelve and a half per centum water tax, and three percent in the case of the lighting tax. Section 86(e) deals with the tax on any holding the valuation of which does not exceed twenty five rupees per annum, and that the tax on any other holding shall not be imposed at rate exceeding seven and a half per centum on the annual value of the holding except in the Patna City Municipality in which it shall not exceed ten per centum on such annual value. Section 86-A deals with restrictions on the imposition of Drainage Tax. As per Section 86-A(c) the tax on the annual value of holdings at which the tax may be imposed shall not without the previous sanction of the State Government, exceed seven and a half per centum . It is not disputed that the assessment of valuation was made by the Authority who was duly appointed by the State Government. Assessment of all/oil the holdings in Deoghar Municipality was revised by the Municipal Authorities after making enquiry and after completing all the formalities in accordance with law. It is also not in dispute that the tax has been levied within the limit prescribed under the Act.

20. The learned counsel for the appellants contended that no notice was served upon the appellants before the assessment of valuation and such non-issuance of notice vitiates the enhancement. In para-11 of the judgment the learned Single Judge has elaborately dealt with this contention and we may usefully refer to the findings of the learned Single Judge which reads as under:--

11. In the present case, the learned counsel for the Deoghar Municipality brought to the notice of the Court that the Board of Municipality was dissolved u/s 385 of the Act, 1922 and after such dissolution the State Government has appointed and delegated the power to Special Officer u/s 381. The Special Officer is competent to exercise power under Sections 381 and 386 of the Act, 1922 is not in dispute. After dissolution, the then State of Bihar issued a Notification bearing No. 2894/N.B.B. Patna dated 24th August, 1991, whereby the Special Officer was asked to initiate a proceeding for revisional assessment. An assessor was appointed which was changed from time to time. The Special Officer gave notice to interested persons by dint of general loudspeaker announcement and by beat of drum, as required under the provisions of the Act and informed the people of Deoghar Municipality that revisions assessment will commence. The Assessor, thereafter, took steps for revisional assessment and made inquiry. Demand notices were issued to the respective property owners, copies of which have also been enclosed with some of the writ petitions, whereby, they were informed that on the basis of revisional assessment, the holding tax may be enhanced. In many of the cases, the owners of the holdings made objections under Sections 116 and 118 of the Act, 1922 in prescribed Form "C", after receipt of demand notice. Having received those objections, the Special Officer again issued notices to the respective holding owners, whereby, they were informed to appear on the date, as was fixed for hearing. In many of the cases, the holding owners appeared before the appellate committee, as was constituted by the State

Government but many of the holding owners did not prefer to appear before the appellate committee.

21. It is by now settled that the principles of natural justice cannot be put in a straightjacket formula. Its applicability depends on several factors in the facts and circumstances of a particular case. In *Graphite India Ltd. and Another Vs. Durgapur Projects Ltd. and Others*, , it has been held that the principles of natural justice can be waived. In *State of U.P. Vs. Harendra Arora and Another*, , it has been held that merely because a copy of enquiry report has not been furnished to the delinquent employee, the order passed in the disciplinary proceeding cannot be ipso facto quashed. Thus, in addition to breach of natural justice, prejudice caused must also be proved. Similarly, if the procedure adopted was fair or where the person who has complained of violation of statutory provision with respect to service of notice, had sufficient knowledge about the proceeding or who has failed to approach the authority, cannot be permitted to take the plea of violation of principles of natural justice. In *The Chairman, Board of Mining Examination and Chief Inspector of Mines and Another Vs. Ramjee*, , the Hon'ble Supreme Court has held that, "unnatural expansion of natural justice, without reference to the administrative realities and other factors of a given case, can be exasperating".

22. The appellants in the present Letters Patent Appeals have not pleaded and proved by producing cogent evidence that due to. non-compliance of provision u/s 115(2) of the Act, serious prejudice has been caused to them. It is not disputed by the appellants that general announcement through loudspeaker as well as by beat of drum was made by the respondent-authority. Notices were issued to the appellants however, they did not produce any documentary evidence indicating the cost of construction of the building and therefore, the Municipal Authority proceeded to assess the valuation of the holding on his own. When the assessment was the general assessment carried out by the Deoghar Municipality and when there was sufficient public notice, the appellants cannot contend that individual notice was not served upon them particularly because they have failed to prove prejudice caused to them. The appellants did not even appear before the Authority after they filed application for review u/s 116 of the Act.

23. The annual value of holding is assessed in terms of Section 98 of the Act which provides that the annual value of a holding shall be deemed to be the gross annual rental at which the holding may reasonably be expected to be let out. In normal circumstances, if the actual cost of construction can be ascertained or estimated if the building is not intended for letting and it is used as residence by the owner himself, the assessment would be done in terms of Section 98(2). However, in other cases, if the letting value can be ascertained the assessment of tax on the annual value of holding can legally be done on that basis. In the present case, the appellants did not provide any material with respect to construction of the building and therefore, they cannot be permitted to raise a grievance with respect to the assessment done by the Municipal Authority.

24. The appellants have raised a plea that no basis has been indicated by the respondent-authority and a statement has been made in the counter-affidavit that the Municipal Authority assessed the value of the holding by mere look of the building. It is thus submitted that the valuation of the holding has not been carried out in accordance with the procedure prescribed under the Act. Per Contra, the respondents have pleaded that valuation has been done in accordance with the provisions prescribed in the Act. The details of calculation with respect to each holding has been given by the respondents in the counter-affidavit. The appellants have not produced any material before the Municipal Authority nor in their appeal preferred u/s 116 of the Act so as to contradict the valuation done by the Municipality. In the present proceeding also, no evidence has been produced by the appellants in support of the plea that the valuation of the holding was arbitrary. The fact is that in many cases the assessment value has been reduced by the authority and therefore, it cannot said that the assessment so done, was arbitrary. In the matter of imposition of tax, it is only to be ensured that the taxation is reasonable and not arbitrary so as to violate Article 14 of the Constitution of India.

25. The appellants have contended that they were discriminated by the Municipal Authority in as much as, other similar holdings have been assessed at lower value. We find that no detailed description with respect to other holdings have been produced by the appellants. It is not known whether those holdings are being used for purely residential or partly commercial and partly residential purposes. The learned Single Judge has observed as under:--

Apart from the aforesaid submissions, the petitioners have not given the details of their respective holdings, namely, (a) What is the total area of the premises, (b) Whether it is in their respective personal use or has been let out, (c) If let out, what is the rent they are getting, area-wise, (d) What is the fair rent of the area where the holding is situated, (e) What is the valuation of the house etc.

These are the factors, which have been taken into consideration by the assessor to determine the holding tax of one or other petitioner.

26. In the counter-affidavit, the respondent has stated that the Deoghar Municipality is financed by the State Government to the tune of 30% only and 40% amount is given to the Municipality as a loan and balance 30% of the total budget is being managed by the Municipality itself through its own sources. It is further stated that the only source of finance of the Deoghar Municipality is from realisation of holding tax. It is further submitted that besides Rs. 8 lacs on account of monthly salary to its employees, the Municipality has to manage fund for construction of road, Street-light, water and other facilities. During the pilgrim's period, the Municipality has to spend huge amount for providing facilities to the visitors which include persons from foreign countries for religious purpose.

27. After 1997-98, no revisional survey has been carried out by the Deoghar

Municipality. The learned counsel for the respondent-Deoghar Municipality has submitted that out of 28 writ petitioners, except the present appellants others either did not prefer appeal or the appeals preferred by them have already been dismissed. He refers to order passed by this Court in L.P.A. No. 557 of 2003 which was dismissed vide order dated 6.12.2004. The learned counsel has further submitted that almost all the writ petitioners including the present appellants have been paying the municipal tax at the enhanced rate. As noticed hereinabove, the appellants have not produced necessary details for assailing the holding tax fixed by the Deoghar Municipality as excessive, unreasonable or arbitrary. The learned Single Judge has also noticed that, "in absence of those information"s and there being vague pleadings made in the writ petitions, it is not possible for this Court to determine whether the assessment of holding tax is excessive, unreasonable, unjustified and arbitrary or not".

28. Though the learned Single Judge has not individually dealt with the writ petitions, the learned Single Judge has considered all the common issues raised by the appellants alongwith the other writ petitions. We do not find any reason warranting interference with the order of the learned Single Judge and the Letters Patent Appeals are liable to be dismissed. In the result, all the Letters Patent Appeal are dismissed. The appellants are directed to deposit the entire arrears of holding tax alongwith interest, if not already paid, as per the provisions of Bihar and Orissa Municipal Act, 1922 within a period of four weeks from today. On failure to deposit the entire arrears alongwith the interest, the respondent is directed to proceed against the appellants in accordance with law.