(1964) 03 KL CK 0005

In the High Court Of Kerala

Case No : W.A. No''s. 123 etc of 1963

Commissioner, Municipal Council, Mattancherry — APPELLANT

Vs

Malabar Steamship Company Ltd. — RESPONDENT

Date of Decision : 04-03-1964

Acts Referred:

Citation : (1964) KLJ 827

Hon'ble Judges : M.S. Menon, C.J;M. Madhavan Nair, J

Bench : Division Bench

Advocate : K. Velayudhan Nair and K.J. Joseph, for the Appellant; K.V.R. Shenoi, P.K. Kurien, K. Sukumaran, V. Desikan and K.A. Nayar, for the Respondent

Final Decision : Dismissed

Judgement

Madhavan Nair J

The respondents in these appeals by the Commissioner, Mattancherry Municipality are certain shipping companies and the question is of the made of assessment of their profession tax. Admittedly, the only business that they transact within the Municipality is the receipt of goods of shippers for transport in their ships to other places. According to the companies the rule applicable to them is the Rule 18 (2) of the Taxation and Finance Rules, dated 21st Dhanu 1114 (5th January 1939) made under the Cochin Municipal Act, XVIII of 1113, and therefore their incomes have to be deemed to be the prescribed percentage of the turnover of their respective business transacted within the area of the municipality, such turn over being the aggregate freight earned by each of them in the relevant half-year. The municipality contended that as the companies are not engaged in production, import, export, sale or any transaction akin to them, the freight each company earns is its receipts within the municipality, of which 1/6 should be deemed to be their profits assessable to profession tax and that the impugned assessments made on the above basis are correct. In the order under appeal,-which-is common to all the shipping companies, Vaidialingam, J. upheld the stand taken by the companies. Hence, these appeals. The only charging provision relied on by the municipality as empowering them to make the assessments is Rule 18 of the Taxation and Finance Rules. Sub-rules (2) and (3) of that Rule, which alone are relevant here, read:

(2) Where a company or person transacts business partly in the area of a municipality and partly outside such area the income of such company or person from the transaction of business in the area of the municipality shall, for the purpose of levying tax on professions and other sources of income under this Act, be deemed to be the percentage prescribed under clause (b) of sub-rule (I) of the turnover of the business transacted in such area during the half-year or the corresponding half-year of the previous year, as the case may be.

(3) For the purposes of clause (b) of sub-rule (1) and sub-rule (2) the turnover of business in any municipality means the aggregate money value of the goods produced, manufactured, imported, exported, purchased or sold or of any other business transacted in such municipality.

Explanation.--(Omitted as not relevant here).

Omitting the words inapplicable to the respondents-companies, the definition of ''turnover'' is "the aggregate money value of the....business transacted in such municipality." The money value of the transport undertaken by a shipping company must be the aggregate freight earned by such transport, which is therefore the company''s turnover for purposes of their assessment to profession tax. In Chamber''s Twentieth Century Dictionary, one of the meanings given to the word ''turnover'' is "the total amount of money changing hands in a business". The total amount of money that changes hands or comes into the hands of an assessee-company on account of its business transacted within the concerned municipality is undoubtedly the total of the freight earned by the business in the relevant half-year. It must then follow that the contention of the shipping companies that they can be assessed only under Rule 18 (2) of the Taxation and Finance Rules, which has been upheld by the learned Judge, is correct. These appeals have no force and are dismissed hereby; but, in the circumstances of these cases, we make no order as to costs here.

