
(1999) 02 AHC CK 0091
In the Allahabad High Court
Case No : C.M.W.P. No. 782 of 1981

Kedarnath Khanna (Decd.) through L.Rs.	APPELLANT
Vs	
Cantonment Board, Allahabad and others	RESPONDENT

Date of Decision : 23-02-1999

Acts Referred:

Cantonments Act, 1924 — Section 127A, 99(2)

Citation : (1999) 2 AWC 1447

Hon'ble Judges : S.L. Saraf, J;Ikram-ul-Bari, J

Bench : Division Bench

Advocate : Markanday Katju, for the Appellant; S.C. and J.N. Tewari, for the Respondent

Final Decision : Allowed

Judgement

S.L. Saraf and Ikram-ul-Bari, JJ.—Petitioner is allowed to amend the prayer clause in the writ petition for quashing the House Tax.

2. The petitioner is the owner and landlord of the building situate at 5, Ashoka Road, Allahabad. In the year 1997, the petitioner entered into an agreement with the Income Tax department to let out the said premises for a monthly rent of Rs. 6,001 for the relevant year. The respondents issued demand notice on the petitioner for payment of Water-tax and House-tax. The said amount was a sum of Rs. 54,956 and a citation was issued on 7.11.1981.

3. The contention of the petitioner is that the petitioner is not liable to pay House-tax or Water-tax on the building let out to the Central Government and was in the occupation of the Central Government for a public purpose. The petitioner refers to Section 99(2)(f) of the provisions of Cantonments Act. 1924, which reads as follows :

"99 (2).-- The following buildings and lands shall be exempt from any tax on property (other than a tax imposed to cover the cost of specific services rendered by the Board) namely-- (a)

(b)

(c)

(d)

(e)

(f) any building or lands, used or acquired for the public service or for any public purpose which are the property of (the Government) or in the occupation of (the Central or any State Government)."

4. From the plain reading of the Section, it appears that the building or land in occupation of the Central or State Government is exempt from payment of any tax on property. The Section 99(2)(f) clearly states that the property in occupation of the Central or State Government shall be exempt from any tax on property (other than a tax imposed to cover the cost of specific services rendered by the Board).

5. Mr. Chaturvedi appearing on behalf of the Cantonment Board, submits that the aforesaid provisions should be interpreted not literally but a purposive interpretation of the said provisions be made. According to Mr. Tewari, the purpose was to tax the building or land owned or in occupation of the Central or State Government which was used for public purpose and public services. In this connection, Mr. Tewari cited a decision in the case of Administrator, Municipal Corporation, Bilaspur v. Dattatraya Dahankar and another AIR 1992 SC 1646 and cites paragraph No. 4 of the said judgment, which reads as follows :

"4. It seems to us that the High Court had a mechanical approach to construction. The mechanical approach to construction is altogether out of step with the modern positive approach. The modern positive approach is to have a purposeful construction that is to effectuate the object and purpose of the Act. Section 127A must, therefore, receive a purposeful construction. Sub-section (1) contains a table for taxation. There is no provision for taxation in respect of a building having annual letting value less than rupees eighteen hundred. Clause (b) of sub-section (2) expressly exempts building and lands, the annual letting value of which does not exceed eighteen hundred rupees. The proviso permits adding up of annual letting value of all such buildings or lands owned by a single individual in the municipality. The proviso no doubt states that the annual letting value aggregated shall be deemed to be "for the purpose of this clause" meaning thereby for the purpose of clause (b), that is for exemption. But the purpose of the proviso is to deny exemption to buildings or lands owned by the same person and of which the total annual letting value exceeds rupees eighteen hundred."

6. In our view of the matter, if a land or building is in occupation of the Central Government and utilised for the Central Government for their offices and miscellaneous purpose, such occupation is presumed to be for a public purpose. Central Government office like Income Tax Department is for a public purpose.

7. Mr. Tewari submits that the occupation of the Central Government cannot only be for a public purpose and it must also be for public services. Nothing in the provisions of the Act and even giving purposive interpretation to the said provisions, it cannot be said that the building have to be both for public purpose and public services. Since we have held that a building in occupation of the Central Government and the department of the Central Government is presumed to be for public purpose, we allow this petition and quash the citation, which is Annexure-6 to the writ petition. However, it appears that the citation was on account of both Water-tax and House-tax, the authority will be entitled to issue a fresh citation regarding the Water-tax only.