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(1999) 03 AHC CK 0103

In the Allahabad High Court

Case No : C.M.W.P. No. 9088 of 1999

Modi Tyre Factory, Modinagar, Ghaziabad	APPELLANT
Vs	
Chief Judicial Magistrate, Ghaziabad (Appellate Authority of Tax Appeals) and others	RESPONDENT

Date of Decision : 11-03-1999

Acts Referred:
Uttar Pradesh Municipalities Act, 1916 — Section 143(1), 160, 161
Uttar Pradesh Municipalities Act, 1916 — Section 143(1), 160, 161
Uttar Pradesh Municipalities Act, 1916 — Section 143(1), 160, 161

Citation : (1999) 2 AWC 1559(1) : (1999) 2 UPLBEC 1593

Hon'ble Judges : Ravi S. Dhavan, J;A.K. Yog, J

Bench : Division Bench

Advocate : V.B. Singh, for the Appellant; S.C. and Pankaj Mittal, for the Respondent

Final Decision : Dismissed

Judgement

Ravi S. Dhavan and A.K. Yog, JJ.—This writ petition has been filed by Messrs. Modi Tyre Factory. Modinagar. The orders sought to be impugned are dated July 19, 1997. Annexure-8 to the petition, warrant of demand, issued u/s 168 of the U. P. Municipalities Act, 1916. Annexure-10 to the writ petition and the citation, dated January 25. 1999, for recovering the amount of Rs. 14 lacs from the petitioner. Annexure-10 to the writ petition.

2. The Court has heard learned counsel for the petitioner and perused the record of the writ petition.

3. An assessment of the premises occupied by the petitioner had been made. This related to assessment for the year 1996 to 2001. This is the quinquennial assessment u/s 143 (1) of the Act. insofar as the warrant of demand and the citation is concerned, this has been issued as the petitioner has not satisfied the ratable taxes as were assessed. The petitioner had filed an appeal u/s 160 of the Act. But, the condition precedent, for the filing of the appeal had not been met

by the petitioner u/s 161 of the Act. The amount of the tax which has been so assessed must be deposited before the appeal can be considered. The petitioner filed the appeal, but did not follow the mandatory provision by accompanying the deposit of tax with the appeal. In the circumstances, an ad interim order was denied by the appellate authority and the appeal is not being heard.

4. This means that this writ petition has been filed only for the purpose of obtaining an ad interim order. There can be no short cuts to the authority of law nor can the Court make any compromise with the conditions of Section 161, of the Act. The law is very clear on this aspect. Section 160 of the Act provides for an appeal, to an owner or occupier of property who is aggrieved by an assessment on property taxes. Section 161 mentions in no uncertain terms that the amount of tax which has been determined or assessed must be deposited before the appeal can be considered. In reference to the present assessment of ratable taxes, the petitioner did not deposit the tax. The only indulgence the Court can grant is that should the petitioner make deposit of the amount which has been assessed, which assessment aggrieves the petitioner, the appellate authority, then, may consider the appeal and render a decision on it within two months of the deposit of the tax.

5. With the aforesaid observations, the petition is consigned as dismissed.

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