

(2018) 01 KAR CK 0117
In the Karnataka High Court
Case No : 48502 of 2017

M/S. DREAM MERCHANTS

APPELLANT

Vs

STATE OF KARNATAKA & ORS.

RESPONDENT

Date of Decision : 30-01-2018

Acts Referred:

[Karnataka Entertainments Tax Act, 1958](#), [Section 3](#), [Section 2](#), [Section 6A](#)

Citation : (2018) 01 KAR CK 0117

Hon'ble Judges : Vineet Kothari

Bench : Single Bench

Advocate : SHIVARAJ N. ARAI, T.K. VEDAMURTHY

Final Decision : Dismissed

Judgement

1. M/s.Dream Merchants, the writ petitioner has filed this writ petition assailing the order dated 24.07.2017 vide Annexure-M passed by the

Respondent-Assessing Authority under the provisions of the Karnataka Entertainment Tax Act, 1958, imposing Entertainment Tax of

Rs.4,75,000/- under Section 6- A(4) of the Act of 1958 on the event of ""Bangalore Fashion Week"" organized and held by the petitioner in Hotel

Crown Plaza on 03.02.2012. Though apparently, a very narrow point is involved in the present case but unfortunately, this is second round of

litigation by the petitioner before this Court.

2. The earlier Writ Petition No.10119/2014 came to be disposed of vide order dated 26.11.2014 by the learned Single Judge holding that the

petitioner has alternative remedy by way of an appeal under the provisions of the Act and therefore, the writ petition was disposed of with a liberty

to the petitioner to approach the Karnataka Appellate Tribunal. Even against that order, the petitioner took the matter before the Division Bench in

W.A.No.780/2015 (M/s.Dream Merchants vs. State of Karnataka & Another), which Writ Appeal came to be disposed of by the Division Bench

of this Court on 23.07.2015 directing the Entertainment Tax Officer to consider the reply and objections of the petitioner de novo and pass fresh orders.

3. Upon such remand, the Respondent-Assessing Authority has now passed the impugned assessment order on 24.07.2017 imposing the

aforesaid tax liability on the petitioner and aggrieved by the same, the petitioner is again before this Court in the second round of litigation.

4. Mr. Shivaraj N.Arali, learned counsel appearing for the petitioner has submitted before the Court that the Event organized by the petitioner on

03.02.2012 did not fall within the four corners of the definition of "Entertainment" as defined in Section 2(e)(iii) of the Act, 1958 as it was a

Fashion Week, in which, the apparels and dresses of various manufacturers were put in exhibition on mannequins and even live models, to which

limited entry was given through passes or tickets upon sponsorship by various other manufacturers or business houses and thus, neither the Event

itself fell within the definition of "Entertainment" nor the sponsorship payments or advertising charges received by the petitioner fell within the

definition of "payment for admission" as defined in Section 2 (i) (iv-a) of the said Act.

He also relied upon the decision of the Division Bench of the Madhya Pradesh High Court in Calico Mills Ltd., vs. State of M.P. and Others (AIR

1961 Madhya Pradesh 257) and submitted that the Division Bench of Madhya Pradesh High Court held that the exhibition for sale of the fabrics

themselves in elegant surroundings under a canopy put up by the petitioners did not afford any gratification, diversion or amusement and therefore,

such an Event could not be taxed under the provisions of the Entertainment Tax Act and thus, the learned counsel contended that similarly the

Event organized by the petitioner also could not be subjected to levy of Entertainment Tax.

He also drew the attention of the Court towards the definition of "Entertainment" under the provisions of the Karnataka Entertainment Tax Act,

1958, which inter alia includes "pageant" and submitted that the said term "pageant" comprises of procession of people or competition in which

some awards was given to the winners but nothing of this sort was undertaken by the petitioner in the present case. Therefore, the levy of

Entertainment Tax in the present case deserves to be quashed by this Court.

He referred to the decision of the Hon"ble Supreme Court in the case of Amit Kumar vs. State of U.P. & Ors. (AIR 2008 SC 592), and sought to

distinguish the said judgment by submitting that in the case before the Hon"ble Supreme Court, the "pageant" or the competition held for selecting

Mr.Gorakpur and ""Miss. Gorakpur"" was held to be a taxable event under the provisions of the Uttar Pradesh Entertainment and Betting Tax Act,

1979, by the Hon"ble Supreme Court, as it was construed to be a fashion show, whereas the event organized by the present petitioner was of a

different nature, namely, display of apparels and dresses and other products of similar nature.

5. On the other hand, learned counsel for the Respondents-Department Mr.T.K.Vedamurthy however supported the impugned order and urged

before the Court that not only the petitioner has an effective alternative remedy against the impugned order but on merits also, the event organized

by the petitioner undoubtedly falls within the four corners of the Definitions and charging provisions of the Act and consequently, the impugned

order deserves to be upheld by this Court.

6. I have heard the learned counsels for the parties and perused the record.

7. There is little doubt that the Event of "Bangalore Fashion Week"" which included lifestyle parties, after Hour Parties, Press Conferences, display

of designer products through mannequins and live models etc., would fall within the definition clauses and charging provisions of the said Act,

1958.

8. The relevant definition of ""Entertainment"" under Section 2(e)(iii) of the Act, 1958 and definition of ""Payment for admission"" under Section 2 (i)

(iv-a) are quoted below for ready reference:-

2. Definitions :- (e) ""Entertainment"" with all its grammatical variations and cognate expressions means. -

(iii) Any amusement [or recreation or any entertainment provided by a multi system operator] or exhibition or performance or pageant or a [xxx]

game or sport whether held indoor or outdoor to which persons are admitted on payment;]

(i) "Payment for admission" includes.- (iv-a) any payment for any purpose whatsoever connected with an entertainment including sponsorship fee

and advertisement charges, which is paid to the proprietor or any person connected with conducting or organizing such entertainment, [with a view

to promote goodwill, brand name or any business interest directly or indirectly which enables entry of any person into the entertainment".

9. There is no doubt that the wide words employed in the said definition of "Entertainment", which words are joined by the word "or" are by

themselves of wide amplitude or import and there is neither any exclusion nor any separate inclusion in the said definition, because the legislature in

its own wisdom already provided the wide words include all pervasive entertainments so as to cover all kinds of amusement, entertainment,

exhibition or performance or pageant or a game or sport whether held in indoor or outdoor and made them taxable under the provisions of Section

3 of the said Act, 1958. The person who collects payment for admission which by afore-quoted definition includes sponsorship fees and

advertisement charges as well, which the petitioner collected in the present case also, leaves no manner of doubt that the receipts in the hands of

the petitioner, the Event organizer, even though not being paid by the individuals entering in the said indoor place in the Hotel, would be liable to

pay entertainment tax on such payment for admission charges including the sponsorship charges collected by it for the entertainment, amusement

etc., provided by it to the visitors.

10. The arguments raised at the bar by the learned counsel for the petitioner on the anvil of the Division Bench decision of the Madhya Pradesh

High Court or definition of "pageant" misses the basic point namely that the whole definition of the "Entertainment" is much wider and inclusion of

various terms in the definition is not restricted to these words like "pageant" or other words which are joined by the word "or". The exhibition or

sale of fabrics which was being considered and dealt with by the Division Bench of Madhya Pradesh High Court was entirely type of event. The

said judgment is clearly of a different set of facts and the same is of little assistance to the learned counsel for the petitioner in the present case.

11. The definition of "pageant" as per the Oxford Concise English Dictionary is quoted below for ready reference:-

Pageant. 1. an entertainment consisting of a procession of people in elaborate costumes, or an outdoor performance of a historical scene. 2 (also

beauty pageant) a beauty contest. 3. historical a scene erected on a fixed stage or moving vehicle as a public show. of unknown origin"".

12. The aforesaid definition actually commences with, ""an entertainment consisting of a procession of people in elaborate costumes"" etc., Besides

English Dictionary for understanding the meaning of the Event organized by the petitioner, one has to go by the common Parlance Test in the taxing

statutes while dealing with such controversy and no water tight compartments or hair splitting exercise can be undertaken by the authorities while

implementing the statues much less by the Constitutional Courts while dealing with the taxing liability for the Event organised by the petitioner.

13. This Court has no manner of doubt that the event organized by the petitioner clearly attracts the entertainment tax liability and there is no

escape from the wide definition of ""Entertainment"" and charging provisions as contained in the Act itself. The overlapping of the words employed in

the definition of "Entertainment" is intended to cover different kinds of Events and things of entertainment and they cannot be construed in separate

and water tight compartments, as is sought to be argued by the petitioner in the present case.

14. The impugned order passed by the Assessing Authority is not only comprehensive and dealt with the arguments raised by the petitioner and

rightly rejects them. Therefore, at this stage, there is no need to relegate the petitioner to the appellate channels, as provided under the said Act

against the said impugned assessment order. The impugned order is found to be unassailable and deserves to be upheld by this Court on merits.

15. There is no merit in the present writ petition and the same is liable to be dismissed and accordingly, it is dismissed. No costs.