
(1970) 09 AHC CK 0037

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 3727 of 1962

M/s. Mathura Prasad Shri Prakash

APPELLANT

Vs

Zila Parishad, Farrukhabad

RESPONDENT

Date of Decision : 02-09-1970

Acts Referred:

Citation : (1970) 40 AWR 816

Hon'ble Judges : W. Broome, J

Bench : Single Bench

Advocate : B. Dikshit, for the Appellant; K.C. Saksena for Opposite Party, for the Respondent

Final Decision : Dismissed

Judgement

W. Broome, J.—This writ petition, filed in December 1962, challenges an assessment order passed by the Antarim Zila Parishad of Farrukhabad on 21-11-1962, levying circumstances and property tax of Rs. 744.67 from the Petitioner firm for the assessment year 1962-63.

2. A number of grounds have been taken in this petition regarding the vires of the circumstances and property tax levied in this case; but learned Counsel for the Petitioner has conceded that he cannot press these grounds, here, in view of the Full Bench decisions of this Court in R.R. Engineering Co. v. Zila Parishad Bareilly 1969 AWR 534 and Notified Area Committee v. Ram Singhasan Prasad Kalwar 1970 AWR 393.

3. There remains, however, one ground which has been vehemently pressed on behalf of the Petitioner viz. that the levy of the tax in this case was bad because it was made in respect of circumstances and property for the year 1962-63 during the currency of that year. The contention is that the Petitioner's circumstances and property for the year 1962-63 could not be properly ascertained until that year had finished, i.e. by the end of March 1963 and that consequently the assessment order made on 21-11-1962 was premature, illegal

and unenforceable. Mr. K.C. Saxena, who appears for the Zila Parishad, however, maintains that there is nothing extraordinary or unusual about this method of assessment which is in conformity with the "Model rules for the assessment and collection of a tax on circumstances and property" set forth on page 274 of the District Board Manual, the first rule of which runs as follows:

The circumstances and property of the year ending on the 31st day of December previously to the date of assessment shall, when possible, be taken as the basis of assessment.

Learned Counsel for the Petitioner objects that there is nothing to show whether these model rules were ever accepted by the Antanim Zila Farishad of Farrukhabad or its predecessor, the District Board of Farrukhabad, but it seems clear enough that, whether these rules have been normally adopted or not, the District Board and Zila Parishad in question have been assessing and calculating circumstances and property tax on the lines indicated by the above-quoted rule. The question that arises for determination is whether it was open for the District Board and its successor to assess the tax in this manner. I can see nothing in the District Boards Act or in the Notification that was issued imposing the tax in Farrukhabad that would preclude the Board from adopting such a method of assessment; and may point out that learned Counsel for the Petitioner has not been able to refer to any ruling in which this procedure has been held to be invalid or unwarranted. It is obvious, of course, that if an assessment is made in November in respect of the year running from the 1st of April to the following 31st of March, it can not be known at that time what the exact income of the Assessee for the year in question will finally turn out to be. But it is for this very reason that the figures of the previous year have to be taken as the basis of for assessment, the assumption being that normally the circumstances and property of the Assessee will remain unchanged from year to year. If any change should happen to have taken place either in his circumstances or in his property, it is open to the Assessee to make objections on this score, when he is served with notice of the assessment and those objections will be heard and if any change in circumstances or property is proved, allowance will necessarily have to be made therefor. In the circumstances I can be nothing inherently unfair or improper in taking the previous year's figures as the provisional basis for assessment of circumstances and property tax and consequently I am not prepared to quash the impugned assessment in the present case. I note that there is nothing whatsoever in the petition to suggest that there has been any radical change in the circumstances or property of the Petitioner from 1961-62 to 1962-63, which would have made it unfair to take the figures of the earlier year as the basis of assessment for the tax for the subsequent year; but even assuming that any such change had taken place, the remedy of the Petitioner was obviously to file objections to the impugned notice and then, if necessary, to file an appeal.

4. The result is that I see no force in this petition, which is accordingly dismissed with costs.