(2008) 03 P&H CK 0178

In the Punjab And Haryana At Chandigarh

Municipal Committee APPELLANT

Vs

Satish Chander Narang and Another RESPONDENT

Date of Decision : 19-03-2008

Acts Referred:
Punjab Municipal Act, 1911 — Section 61

Citation : (2008) 152 PLR 434 : (2009) 1 RCR(Civil) 222

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajesh Bindal, J.—This order will dispose of R.S.A. Nos. 750, 2466, 2467 of 1986, 1961, 2483, 2484, 2517, 2518, 2684, 3187, 3188 of 1987, 539, 555, 556, 1879, 1880, 1960, 2294 of 1988, 965 to 968, 1987, 2641 of 1989, 717, 723, 725, 758, 829, 830, 1113, 1162 of 1990, 341 to 343, 345, 346, 1224, 1246 to 1248 of 1991, 390, 908, 958, 959, 960, 1066 and 1452 of 1992.

2. The issue for consideration in the present bunch of appeals is regarding levy of water tax. The plaintiffs/respondents were successfully in trial court as well as First Appellate Court where following a Division Bench judgment of this Court in Municipal Committee, Ambala City v. Khalsa Shoe Co. Ltd. (1974) 76 P.L.R. 5, it was declared that the appellate-Municipal Committee did not have the jurisdiction to levy water tax after the deletion of specific entry to that effect from Section 61 of the Punjab Municipal Act, 1911 (for short, ''the Act''). Even reliance on the provisions of Section 61(2) of the Act was also considered and rejected. It was not disputed by learned Counsels appearing for the parties that the Division Bench judgment in Khalsa Shoe Co. Ltd. s case (supra) has further been approved by Hon''ble the Supreme Court in Municipal Committee, Abohar v. Kanshi Ram and Ors. wherein it was held as under:

1. The question for determination before the High Court was whether Municipal Committee, Abohar, had the jurisdiction to impose water tax, in the municipal

area, u/s 61 of the Punjab Municipal Act, 1911 (the Act). Following its earlier judgment in Khalsa Shoe Co. v. Municipal Committee, Ambala City, the High Court answered the question in the negative and against the appellant-Municipal Committee, Abohar.

2. The Municipal Committee can impose various taxes enumerated u/s 61 of the Act. Water tax has not been included therein. It is not disputed that Section 61 of the Act was amended in the year 1923. Prior to the amendment the said section specifically authorized the Municipal Committee to impose water tax. The net result is that by way of amendment in the year 1923, the legislature took away the power of the Municipal Committee to impose water tax in the municipal area. In Khalsa Shoe Co. case, a learned single Judge of the High Court held as under:

The question which now falls to be determined is whether by excluding a tax expressly mentioned in the earlier Acts from the category of taxes mentioned in Section 61(1) of the Act, the legislature still intended to authorise a municipal committee to impose the same tax u/s 61(2) of the Act. In State of Bombay v. R.M.D. Chamarbaugwala, it has been observed that in order to interpret the provisions of a statute it is permissible to a court to take into consideration the history of the legislation. Section 61 of the Punjab Municipal Act, 1911, noticed above clearly shows that the legislature had made an express provision for the imposition of water tax. When the Act was amended in the year 1923, the legislature expressly repealed this provision. In this situation, it cannot be said that the legislature entitled the municipal committee to impose the same tax u/s 61(2) of the Act. I am fortified in this conclusion by reading of Section 61(1) of the Act which enumerates the categories of taxes which a municipal committee can impose. If it was desired to give all embracing powers to the municipal committee to impose taxes by inserting Section 61(2) in the Act, then it was a simple thing to do away with the enumeration of the categories of taxes expressly mentioned in Section 61(1) of the Act:

3. We see no ground to interfere with the reasons of the High Court in Khalsa Shoe Co. case which has been followed in the present case. The appeal is dismissed. No costs.

The above facts being not in dispute, the proposition of law sought to be raised being covered by judgment of Hon''ble the Supreme Court in Kanshi Ram''s case (supra), accordingly, the present appeals are dismissed with no orders as to costs.

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