(1995) 07 MP CK 0024

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 59 of 1992

Nagar Palika Parishad APPELLANT

Vs

Krishi Upaj Mandi Samiti and Others RESPONDENT

Date of Decision : 28-07-1995

Acts Referred:
Madhya Pradesh Municipalities Act, 1961 — Section 127A(2)

Citation : (1996) MPLJ 960

Hon'ble Judges : Tejinder Singh Doabia, J

Bench : Single Bench

Advocate : K.B. Chaturvedi, for the Appellant; R.A. Roman, for the Respondent

Judgement

T.S. Doabia, J.

Shri K.B. Chaturvedi, Advocate for the petitioner.

Shri R.A. Roman, Advocate for the respondents.

Heard.

The Nagar Palika Parishad, Guna is aggrieved against orders Annexures P/1 and P/2 vide which it has been held that Krishi Upaj Mandi Samiti, Guna is not legally bound to pay property tax under the provisions of M. P. Municipalities Act, 1961.

The liability to pay property tax is governed by Section 127-A of the aforementioned Act. Under sub-section (2) of Section 127-A of the Act certain exceptions have been carved out. It would be relevant to notice the aforementioned provisions :

"127-A Imposition of property tax. - (1) Notwithstanding anything contained in this Chapter as from the Financial Year 1976-77, there shall be charge levy and paid for cash financial year on tax on land or building, both situate in Municipal area other than Class IV , Municipality at the rates specified below :

(2) the property tax levied under sub-section (1) shall not be leviable in respect

of the following properties, viz.;

(a) buildings and land owned by or vesting in -

(i) Union Government;

(ii) State Government;

(iii) a Council.

A bare reading of the aforementioned provisions indicate that only three types of properties have been exempted. These are :

(i) property belonging to the Union of India;

(ii) property belonging to the State Government;

(iii) property belonging to a Council."

So far as the Krishi Upaj Mandi Samiti is concerned, this is not exempted u/s 127-A of the Act. As such, the decision contained in Annexures P/1 and P/2, is contrary to the provisions mentioned hereinabove and cannot be sustained.

The learned counsel for the respondent No. 1 has placed reliance on a Division Bench judgment of this Court i.e. Writ Petition No. 140 of 1973 decided on 20-7-1976 (Since reported in 1977 MPLJ 692). This is Annexure P/5. This is a case which deals with the interpretation of M. P. Nagariya Sihavar Sampathi Kar Adhiniyam, 1964. The relevant provision which deals with exemption under the above Act are contained in Section 6(a)(iii). These read as under:-

Exemptions. - Tax shall not be leviable in respect of the following properties, namely,

(a) Buildings and land owned by or vesting in -

(i) Union Government;

(ii) State Government;

(iii) Local Authority.

Thus, what has been exempted is the property belonging to the local authorities. Krishi Upaj Mandi would definitely be a local authority and would be exempted under the M. P. Nagariya Sthavar Sampathi Kar Adhiniyam, 1964. But as noticed above, the provisions of the M. P. Municipalities Act do not use the word "local authorities" but use the word "Council". Thus, a definite express departure has been made by the Legislature. As such, the plea of the learned counsel appearing for the respondent cannot be sustained. The same is held to be legal. It is laible to pay the tax. The order passed to the countrary is set aside.

This petition is disposed of as indicated above.

