
(2001) 04 AHC CK 0081
In the Allahabad High Court
Case No : C.M.W.P. No. 495 of 2001

Shot `n" Pot

APPELLANT

Vs

District Magistrate, Meerut and another

RESPONDENT

Date of Decision : 03-04-2001

Acts Referred:

Uttar Pradesh Entertainments and Betting Tax Act, 1979 — Section 2, 3, 4A

Citation : (2001) 2 AWC 1257 : (2001) AWC 1257

Hon'ble Judges : U.S. Tripathi, J;M. Katju, J

Bench : Division Bench

Advocate : K.K. Arora, for the Appellant;

Final Decision : Dismissed

Judgement

M. Katju and U.S. Tripathi, JJ.—Heard learned counsel for the petitioner and learned standing counsel. The petitioner has challenged the impugned order dated 29.12.2000, Annexure-4 to the petition, by which demand of entertainment tax has been made from the petitioner.

2. In paragraph 2 of the petition, it is alleged that a survey was made by the Senior Entertainment Inspector, Meerut and some other persons and it was found that petitioner had installed three tables for the purposes of playing skill game (Billiards. Snooker, etc.) and offering the same to the players at the rate of Rs. 60 per hour. No records pertaining to income and expenditure were shown to the Entertainment Inspector when demanded. A notice dated 20.5.2000 was thereupon issued by the A.D.M. City, Meerut, to the petitioner, in which above fact was stated and it was further stated that the aforesaid skill game was said to have started from December, 1999 and was being played every day from 10.30 a.m. to 9.30 p.m. It was alleged in the notice that the aforesaid game comes within the definition of Section 2 (g) of U. P. Entertainment and Betting Tax Act, 1979, for which petitioner is liable to pay Entertainment Tax at the rate of 30% of the amount charged. A true copy of the notice dated 20.5.2000 is Annexure-1 to the petition.

3. The petitioner replied to the notice alleging that he was not liable to pay Entertainment Tax. He admitted that he had taken the premises on monthly rent of cost Rs. 10,000 from December. 1999 to October, 2000, wherein he had provided tables for the purposes of playing skill game and Billiards and that the playing time was from 2 p.m. to 8 p.m. A true copy of the petitioner's reply is Annexure-2 to the petition. Thereafter, the petitioner sent a letter dated 5.1.2001, wherein he stated that he had stopped the activity. A true copy of the said letter is Annexure-3 to the petition. Thereafter, the impugned order dated 29.12.2001 was passed, vide Annexure-4 to the petition, by which Entertainment Tax and penalty was imposed on the petitioner.

4. The learned counsel for the petitioner submitted that the petitioner is not providing any entertainment and hence he is not liable to pay entertainment tax. We do not agree with the submission made by the learned counsel for the petitioner. Section 2 (g) of the Act states as follows :

"entertainment" includes any exhibition, performance, amusement, game, sport or race (including horse race) to which persons are admitted for payment and in the case of cinematograph exhibitions. Includes exhibition of news-reels, documents, cartoons, advertisement shorts or slides, whether before or during the exhibition of a feature film or separately ;

Section 3 of the Act states as below :

"Tax on payment for admission to entertainment.--(1) Subject to the provisions of this Act, there shall be levied and paid on all payments for admission to any entertainment, other than an entertainment to which Section 4 or Section 4A or Section 4B applies or a compounded payment is made under the proviso to this sub-section, an entertainment tax at such rate not exceeding one hundred and fifty per cent of each such payment as the State Government may from time to time notify in this behalf, and the tax shall be collected by the proprietor from the person making the payment for admission and paid to the Government in the manner prescribed :

Provided....."

5. Learned counsel for the petitioner submitted that the activity of the petitioner does not amount to entertainment. We do not agree with the submission of the learned counsel for the petitioner. A perusal of the definition of the word "entertainment" in Section 2 (g) shows that it has been very widely cast. Even activities, which may not be entertainment strictly speaking have been deemed to be entertainment, e.g., a game, sport or race to which the persons are admitted for payment. It is well known that a large number of such halls in which there are Billiards or Snooker tables are being used as a business from the point of view of the persons who admitted the players on demand of money. From the point of view of the property of the provider of such activity, it is nothing but a business. Even assuming Billiards and Snooker are not games for entertainment in common parlance the definition of entertainment in Section 2 (g) includes

game or sport as well. Hence, the petitioner's activity certainly comes within the definition of entertainment.

6. The learned counsel for the petitioner then submitted that the rate of tax has not been notified by the State Government. There is no such averment anywhere in the writ petition. On the contrary, learned standing counsel informed us that the rate of tax has been notified as 30% and we see no reason to disbelieve the statement.

7. For the reasons given above, we hold that the petitioner is certainly liable to pay entertainment tax on the activity. The petition is, therefore, dismissed. However, if the petitioner files an appeal against the impugned order within three weeks from today, the same will be entertained without raising objection as to limitation and shall be decided expeditiously thereafter.