(1942) 07 MAD CK 0004

In the Madras High Court

The Malabar District Board APPELLANT

Vs

The Cochin Malabar Estates, Limited and Another RESPONDENT

Date of Decision : 15-07-1942

Acts Referred:

Madras Local Boards Act, 1884 — Section 93

Citation : AIR 1943 Mad 107 : (1943) ILR (Mad) 276 : (1942) 55 LW 833 : (1942) 2 MLJ 722

Hon'ble Judges : Alfred Henry Lionel Leach, C.J

Bench : Division Bench

Judgement

Alfred Henry Lionel Leach, C.J.—These two revision petitions raise the same question of law and have been heard together. In C.R.P. No.

1696 of 1939, the Court has to decide whether the Malabar District Board, Calicut, is entitled to impose the profession tax on the Cochin

Malabar Estates, Limited, a limited liability company registered under the Indian Companies Act and in C.R.P. No. 1697 of 1939, whether it is

entitled to impose the tax on the Kerala Calicut Rubber Estates, Limited, a limited liability company registered in England. Both these companies

possess rubber estates within the jurisdiction of the Malabar District Board. The office of the Cochin Malabar Estates, Limited, is situate in Calicut

and there all contracts with regard to the sale of the company''s rubber are entered into. The managing agents of the company are Pierce Leslie and

Company, Limited, whose office also is in Calicut. Pierce Leslie and Company are also the managing agents of the Kerala Calicut Rubber Estates,

Limited. The office of that company is in London and its contracts are entered into there. For the years 1934-35 and 1935-36, the District Board

demanded from the Cochin Malabar Estates, Limited, the sum of Rs. 57-8-0 by way of profession tax. In respect of the Kerala Calicut Rubber

Estates, Limited, the imposition was for three years, 1934-35, 1935-36 and 1936-37, and the total amount here was Rs. 145. The companies

were compelled to meet the demands made upon them, but they instituted suits in the District Munsiff''s Court at Calicut to recover the monies

paid. The District Munsiff found that the demands of the District Board were unlawful and decreed the suits. The District Board asks this Court to

set aside the decrees in the exercise of its powers of revision. We consider that the District Munsiff was right.

2. Section 93 of the Madras Local Boards Act allows a District Board to levy a profession tax on a company which transacts business within its

jurisdiction for not less than sixty days in the aggregate in any half year. Rule 10 of Schedule IV of the Act says,

A company or person shall be deemed to have transacted business or exercised a profession, art, or calling, or held an appointment within a local

area if such company or person has an office or place of employment within such local area.

In Municipal Council, Dindigul v. Bombay Co., Ltd. (1928) 56 M.L.J. 525 : ILR 52 Mad. 207, this Court held that the expression ""transacting

business"" in Section 92 of the Madras District Municipalities Act, means carrying on business, and that decision has full application here. In

Municipal Council of Coconada v. ""Clan"" Line Steamers, Ltd. (1918) 36 M.L.J. 226 : ILR 42 Mad. 455, the Court held that a company carries

on business only at the place where it enters into contracts in connection with its business; and a similar decision was given in Pachaiammal and

Another Vs. The Hindustan Co-operative Insurance Society Limited, an Incorporated Company and Others, .

3. It is clear in the light of these authorities that these companies do not carry on business within the jurisdiction of the Malabar District Board.

They certainly grow rubber trees there and obtain rubber from them but this is only ancillary to their business of selling rubber. In one case no

contracts are entered into outside Calicut and in the other case outside London and neither company has an office within the jurisdiction of the

District Board.

4. On behalf of the District Board, Mr. Govinda Menon says that rule 10 makes a

company liable where it has a place of employment within the

local area, and the companies employ labour within the area. This argument obviously cannot be accepted. The expression ""place of employment

here means the place of employment of a person who is employed and by reason of his employment is liable to pay profession tax. Obviously, it

cannot be said that the companies are employed. When Section 93 and rule 10 of Schedule IV are read with the help of the cases which have

been referred to it is clear that the companies are not liable to pay profession tax to the District Board.

5. The petitions will be dismissed with costs.

