
(1920) 02 BOM CK 0030
In the Bombay High Court
Case No : Second Appeal No. 384 of 1919

The Surat City Municipality	Vs	APPELLANT
Maneklal Ichharam and Co.		RESPONDENT

Date of Decision : 12-02-1920

Acts Referred:

Bombay District Municipal Act, 1901 — Section 59(b)(ii)

Citation : (1920) 22 BOMLR 1104

Hon'ble Judges : Norman Macleod, J;Heaton, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Norman Macleod, Kt., C.J.—The defendant Municipality sought to levy a tax on the plaintiffs' vehicles on the ground that they were empowered to do so u/s 59(b)(ii) of the Bombay District Municipal Act. Their argument seems to have been that every cart kept outside the District was liable to be taxed if it happened to be used within the district, that is to say, that every cart kept outside for use in the district was liable to a tax. That by itself is putting a strained meaning on the words of the Sub-section "kept for use within the district." But if Sub-section (ii) were in any way obscure, its meaning is made perfectly plain by Sub-section (iii) which refers to vehicles, boats, or animals used for riding draught or burden, which enter the district, but are kept outside. The Municipality are entitled to levy a toll on such vehicles and animals whether loaded or unloaded.

2. Then we are told that the Municipality have made rules whereby they only levy a toll on loaded vehicle,-;. Hut Sub-section (ii) especially says that such vehicles and animals which are used for riding, draught or burden, and enter the district are not liable to taxation under Sub-section (ii), We are asked to read for the word "but" the word "if". If that were so, then it would mean that there were two classes of vehicles and animals kept outside, but used within the district, some of which would be liable to taxation under Sub-section (ii), while the rest would not

be liable. But there is no provision whatever in the section for distinguishing these two classes. In my opinion, therefore the judgment of the lower appellate Court was perfectly correct, and as long as the plaintiff kept his carts outside the district, he was only liable to pay toll when they entered the district, and he was only liable for toll under the Municipal rules if his carts were loaded. Therefore the appeal is dismissed with costs.

Heaton, J.

3. I agree.