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Delhi High Court

Case No: Letter Patent Appeal No. 153 of 1971

Tin Can Manufacturing Co.	APPELLANT
Vs	
Municipal Corporation of Delhi	RESPONDENT

Date of Decision: Sept. 1, 1980

Citation: AIR 1981 Delhi 179 : (1981) CriLJ 667 : (1981) 19 DLT 23

Hon'ble Judges: S.B. Wad, J; A.B. Rohtagi, J

Bench: Division Bench

Advocate: S.C. Nigam and Romesh Chander, for the Appellant;

Judgement

Avadh Behari Rohatgi, J.

(1) This is a letters patent appeal from the order of a learned single judge dated May 19, 1971.

(2) The appellant''s building was assessed to house tax at an annual value of Rs. 5191.00 for the year 1958-59. On 13th May, 1960 the respon- dent, Municipal Corporation of Delhi, (Corporation) issued a notice under S. 124 of the Delhi Municipal Corporation Act 1957 (the Act) to the appel- lant. By this notice he was informed that the rateable value was proposed to be raised from Rs. 5191.00 to Rs. 21,136.00 per annum. This notice, was in terms of S. 124(3) which requires the Commissioner to give to the owner a written notice when he proposes to increase the assessment of any land or building. Objections were invited to this notice within one month. The appellant filed objections on 13th June, 1960. They were well within time. His objections were decided on 1st November, 1960 by the assessor and collector of the Corporation. He assessed the rateable value of the property in question at Rs. 14,699.00 with effect from 1st April, 1960.

(3) The appellant brought a suit for permanent injunction against the Corporation challenging the fixation of the rateable value at Rs. 14,699.00 . He contended that the

rateable value had not been fixed in accordance with law and as a result the demand of house tax was illegal. The suit was decreed by the subordinate judge. The Senior Subordinate Judge on appeal upheld the decision of the trial court. From his decision a second appeal was filed. The learned single judge reversed the courts below. He held that the decisions of the courts below were erroneous and that the fixation of the rateable value at Rs.14,699.00 was valid. He dismissed the suit of the appellant. From his decision this letters patent appeal has been brought.

(4) It is necessary to go into the various contentions raised before the learned single judge in the second appeal. In our opinion, this appeal can be decided on a short point. Now dates are important in this case. The year in question was 1960-61. This was from 1st April, 1960 to 31st March 1961. For this period by their notice dated 13th May 1960 issued under S. 124 of the Act rateable value was proposed to be increased from Rs. 5191.00 to Rs. 21,36.00 . This was during the currency of the year that the notice was served on the appellant. To this notice he filed objections. The objections were filed on 13th June 1960, as we have said. Now the crucial dated is 14.10.1960, on which date counsel for the Corporation tells us that the assessment list was authenticated in terms of S. 124(6). He has made this statement at the bar. Now the objections of the appellant which he had filed on 30th June 1960 were decided by the assessor and collector on 1st November, 1960. He fixed the rateable value at Rs. 14,699.00 with effect from 1st April, 1960. Accordingly a demand was raised against the appellant to pay the property tax on the valuation so fixed by the assessor. This was the subject of challenge in this litigation though out at all stages.

(5) On any view of the matter the objections of the appellant ought to have been decided before the list was authenticated by the Commissioner under sub-section (6). If the objections are decided after the list has been authenticated, as has happened in this case, the assessor and collector has no power to ask the appellant to pay the tax on the revised valuation. This is the scheme ofS. 124. The authentication of the list is a decisive consideration in this case. The Property Tax bye Laws 1959 provide in rule 3 :

" SAVE as otherwise provided in the Act property tax shall be payable in respect of each year on the date on which the assessment list is authenticated under sub-section (6) of section 124."

(6) It is evident that after the authentication of the list the rateable value cannot be increased as was done in the case. The order of the assessor and collector dated 1st November, 1960 fixing the rateable value at Rs. 14,699.00 must Therefore be held to be illegal and without jurisdiction. This appears to us an inevitable conclusion on a plain reading of S. 124. Counsel for the Corporation was unable to support the action of the assessor and collector.

(7) For these reasons the appeal is allowed. The suit is decreed. The parties are however left to bear their own costs.