(1978) 03 BOM CK 0047

Bombay High Court (Nagpur Bench)

Case No: Civil Revision Apple. No. 213 of 1974 with Civil Revision Application No. 535 of 1976

Taherali Mulla Ibrahim Bohri	APPELLANT
Vs	
Municipal Council, Akola	RESPONDENT

Date of Decision: March 4, 1978

Acts Referred:

- Bombay Sales Tax Act, 1959 - Section 20, 21, 22, 23, 3
- Civil Procedure Code, 1908 (CPC) - Section 115, 9
- Constitution of India, 1950 - Article 226
- Government of India Act, 1935 - Section 226

Citation: (1978) MhLj 359

Hon'ble Judges: R.D. Tulpule, J

Bench: Single Bench

Advocate: A.B. Oka, for the Appellant; J.N. Chandurkar, for the Respondent

Final Decision: Dismissed

Judgement

R.D. Tulpule, J.
In these two revision applications a question has been raised with regard to their maintainability.

2. Both these revision applications arise from the proceedings taken out by the petitioner before the Judicial Magistrate, First Class, Akola challenging the assessment in respect of the property bearing House No. 142, Ward No. 25, Malipura, Akola which was a theatre known as ''Manek Talkies''. Revision application No. 213 of 1974 arises out of the said appeal preferred against the decision of the Municipal Committee, Akola raising the rateable value of the property from Rs. 4,800 which it was formerly, to Rs. 7,665 payable from first of April 1968. The petitioner contended before the authority for the purposes of heating objection that this revision was unjustified, arbitrary and causing harassment, and having failed in

getting relief from the authority, preferred this appeal to the Judicial Magistrate, First Class, Akola. The Judicial Magistrate, First Class, Akola allowing the appeal against the assessment directed the Akola Municipal Council to recover taxes at the former rate and cancel demand.

3. Against that order of the Judicial Magistrate, First Class, Akola a revision was preferred by the Akola Municipal Council to the Additional Sessions Judge, Akola which was numbered as Criminal Revision Application No. 9 of 1973. The Additional Sessions Judge, Akola allowed the revision, set aside the order passed by the Judicial Magistrate, First Class, Akola and restored the order passed by the Municipal Council, Akola demanding increase of Rs. 489.82. It is against this order that the present Civil Revision Application No. 213 of 1974 came to be filed.

4. Civil Revision Application No. 535 of 1976 is similarly riled by the said Proprietor of Manek Talkies situate in the town of Akola to challenge the further increase sought to be made by the Akola Municipality from the rateable value of Rs. 7,665 which was fixed to Rs. 10,230 for the period of four years from 1973-74 to 1976-77. He similarly challenged the increase in the assessment and raising of the value on the grounds set out in that appeal. This appeal also came to be allowed by the Judicial Magistrate, First Class, Akola who set aside the demand and directed that the demand should be made as before. Criminal Revision against that decision was filed by the Akola Municipality before the Additional Sessions Judge, Akola who allowed the revision application, set aside the order of the Judicial Magistrate, First Class, Akola and restored the order of the Municipal Council and the demand made by it. Civil Revision Application No. 335 of 1976 is directed against that order.

5. At the hearing of these revision applications, a contention was raised that these revision applications are not maintainable. A question arose for determination as to whether these matters which were entertained as criminal revision applications by the Additional Sessions Judge can be revised and a revision application against them would lie. It is settled law now that though the appeal lies to the Magistrate from the order rejecting the objection taken by rate payers to the proposed assessment and further revision application to the Sessions Court, the dispute between the parties is not criminal in nature but is a quasi civil matter. In that view of the matter revision application u/s 115 of the Code of Civil Procedure, it was contended, could be ultimately filed. In the view which I am taking about the maintainability of these revision applications, it is unnecessary to consider this aspect of the matter.

6. The question as to the maintainability of the revision applications arises in the following manner. These applications arise out of proceedings as pointed out challenging the assessment and valuation made for the proposed tax to be made by the Akola Municipal Council. They are proceedings taken out under Chapter IX of the Maharashtra Municipalities Act, 1965. Section 105 of the Maharashtra Municipalities Act, 1965 enables and obliges a Council, amongst other taxes, to impose a consolidated tax on property in regard to tax on lands and buildings. A Valuation

Officer is to be appointed as contemplated u/s 113 and such Valuation Officer has to proceed with the fixation of valuation of lands and buildings situate within the jurisdiction of the Municipal Council. u/s 115, the Chief Officer has to cause assessment list of lands and buildings within the Municipal area to be prepared in the prescribed form. When such a list is prepared u/s 117, the Chief Officer has to submit the same to the authorised Valuation Officer who has then to scrutinise that list and then return to the Chief Officer who has then to give a public notice of the list so finalised. This notice of the Chief Officer is for the purpose of inviting objections to the valuation or assessment of the property in such lands. The Chief Officer has also invariably to give individual notice inviting objections where the property is being assessed for the first time or the assessment is being increased. Objections thereafter when received within the prescribed time against the valuation or assessment of any property are then to be decided as per section 120 by the authorised Valuation Officer, The authorised Valuation Officer after hearing the objections has to fix the valuation and assessment and if such valuation or assessment necessitates any amendment then he has to cause the said amendments to be made in accordance with his findings in the list. It is this finalised list which is to become the basis of a demand and preparations of bills against the owner or occupier as the case may be. A list so finalised is conclusive subject, of course, to the appeal or revision as provided for in section 169 or section 171. That is the import of section 122.

7. For our purposes and for the purposes of the question which is raised in the present revisions, it is unnecessary to refer to the following sections in Chapter IX. Chapter X then deals with the recovery of the Municipal claims and as stated above, the Chief Officer has a liability to present the bill to the person liable for payment thereof u/s 150. That person to whom the bill is presented may within 15 days pay the same, or show cause, or prefer an appeal in accordance with section 169 against the claim. It will thus be seen that the person to whom the bill is preferred can make an appeal u/s 169, which contemplates such an appeal to be made to the Judicial Magistrate or Bench of such Magistrate by whom under the direction of the Sessions Judge such class of cases is to be tried. Thus it will be seen that such an appeal u/s 169 is against the bill which is arrived at on the basis of valuation fixed and calculated in accordance with the rate of taxes imposed by the Council.

8. Sections 169 to 172 are material for our purposes. Section 170 prescribes the procedure in regard to the appeals and the manner of their entertainment under certain circumstances. A revision application is provided u/s 171 against the decision in appeal u/s 169 of a Magistrate and such revision application will lie to the Court to which appeals against the decision of such Magistrate ordinarily lie, which would under the circumstances, be a Court of Session.

9. Section 172 then which is material, and on which the present objection to the maintainability of the application is based, is in these terms:

"172. No objection shall be taken to any valuation, assessment or levy nor shall the liability of any person to be assessed or taxed be questioned, in any other manner or by any other authority than is provided in this Act."

10. Mr. Chandurkar who appeared for the respondent Akola Municipal Council contended that these revision applications are not maintainable as they are not provided for in the Maharashtra Municipalities Act. He contended that an objection to the valuation or assessment or its levy cannot be raised "in any other manner" or "by any other authority than is provided in this Act". He, therefore, urged that the revision applications against the order passed by the Sessions Judge, not being provided for in the Maharashtra Municipalities Act would be a challenge to such assessment or valuation "in any other manner". It was also his submission that the High Court is not any authority for a further challenge as contemplated by the Maharashtra Municipalities Act to resolve the dispute in regard to assessment. Therefore, section 172 of the Act operates as a complete bar after the revision is decided by the Court of Session u/s 171. Mr. Chandurkar contended, that normally a proceeding which could be taken up by way of challenge to an order passed by the Sessions Court either, u/s 115 of the CPC or under the provisions of the Code of Criminal Procedure is not only not contemplated but impermissible and would mean a challenge "in any other manner". According to Mr. Chandurkar the phrase "in any other manner" used in section 172 is wide in its amplitude and takes in its sweep all such manner of challenge to an order passed by the Sessions Court including a revision application like the one which has been preferred. Mr. Chandur-kar, however, did not go further to contend that this expression also embraced a constitutional remedy under Article 226 of the Constitution of India. His contention for the purposes of this revision application was limited to contending that the revision application against the order of the Sessions Judge as preferred which is permitted u/s 115 of the CPC cannot be allowed and is not permitted. Mr. Chandurkar relied upon a judgment of the Supreme Court reported in Bata Shoe Co. Ltd. Vs. City of Jabalpur Corporation, .

11. Mr. Oka who appeared for the petitioner stoutly defended that the revision application is maintainable. Mr. Oka''s contention was firstly, that the revision applications have been maintained and entertained by this Court since a long time, both prior to the 1965 Act under the C. P. and Berar Municipalities Act, 1922 and also later that is, after the passing of the Maharashtra Municipalities Act. It appears that this is the first revision of assessment subsequent to the coming into operation of the Maharashtra Municipalities Act, 1965 made by the Akola Municipal Council. The second contention of Mr. Oka was that the High Court is not an authority which is contemplated by section 172. The High Court, he urged, has the power of superintendence conferred upon it by other enactments to examine the decisions given by the Courts subordinate to it. That power which the High Court has u/s 115 of the Code of Civil Procedure, he urged, could not be taken away. Lastly, it was his submission that the words "in any other manner" speak of proceedings de hors the

Act such as a suit. According to him, a proceeding which is a continuation, or arises out of a proceeding permissible under sections 169 and 171 is not a challenge to the valuation or assessment "in any other manner" but is a challenge in the manner of the Act itself. In other words, according to Mr. Oka, a challenge to be covered by the expression "in any other manner" had to be one not arising out of a manner of challenge contemplated by the Act but extraneous to the Act.

12. This submission that revision applications have been entertained under the C. P. and Berar Municipalities Act, 1922 in similar circumstances and have also been entertained subsequent to the passing of the Maharashtra Municipalities Act, 1965 has not been seriously disputed before me. It would, however, be necessary to examine the relevant provisions in the C. P. and Berar Municipalities Act, 1922 and the present provisions. It was pointed out that the present section 172 is copied from section 84, sub-section (3) of the C. P. and Berar Municipalities Act, 1922 and is reproduced here word for word. It is true that section 84, sub-section (3) of the C. P. and Berar Municipalities Act, 1922 is word for word reproduced in section 172. No authority deciding the case is pointed out to me by Mr. Oka wherein the expression "in any other manner" or "by any other authority" had been construed. But Mr. Oka''s contention was that the circumstance that it was not in any case construed and was not decided goes to indicate that it was not considered as material or presenting a bar to a further revision application against the order passed in appeal. u/s 83, however, or the C. P. and Berar Municipalities Act an appeal lay first to the Deputy Commissioner and then from the order of the Deputy Commissioner a revision to the Commissioner. Both the Deputy Commissioner and the Commissioner were authorities empowered under the Act to hear appeals against the decision of the valuation or assessment and revision thereafter. It is also true that subsequent to 1965, similar revision applications have been entertained by this Court, and one such instance was pointed out to me by Mr. Oka in the case of Municipal Council, Morshi v. Tulshiram 1977 Mh. L J 735. I shall refer to that decision later but as I pointed out neither in that decision nor in any other decisions which can be pointed out or in any other case, had the question been decided. In view of the entertaining of the revision application and in particular, the decision of the Division Bench of this Court in Municipal Council, Morshi v. Tulsiram (supra) a question arose since I am inclined to take a contrary view, whether the matter should be referred to a Larger Bench. However, on a consideration of the authorities and in particular, the decision of the Supreme Court in Bata Shoe Company''s case (supra) which was not available and was not before the Division Bench of this Court which decided the Morshi Municipal Council''s case and since in view of the Supreme Court decision, I am of the opinion that the Division Bench decision must be considered as no more good law, I do not think it necessary to refer this matter to a Larger Bench.

13. Mr Oka relied upon section 9 of the CPC and contended that this being a matter of civil nature, this Court has jurisdiction and unless expressly or impliedly ousted,

must be deemed to be continued. The words in section 172 in his opinion neither expressly or impliedly take away the jurisdiction of this Court.

14. Mr. Oka further submitted that all those cases in which such a question has arisen or has been considered, have arisen out of suits filed against the Municipalities to recover amounts alleged as excessive, improper or illegal recoveries. That such an expression may oust impliedly the jurisdiction of the civil Court but it does not, according to him, oust a jurisdiction which no doubt is conferred by another enactment, but arises from out of the permitted proceedings under the Act.

15. Mr. Oka also referred to a decision reported in Niranjan Lal Bhargawa Trust v. Nagar Mahapalika, Allahabad 1970 All. L J 332 wherein the proceeding was also entertained as revision application. In the absence, however, of the relevant provisions of the U. P. Nagar Mahapalika Adhiniyam, 1959, it would not be possible to express any opinion in regard to that decision.

16. It would, therefore, be necessary to go to the Bata Shoe Company''s case (supra). That case also arose upon a suit filed by the Bata Shoe Company against the Jabalpur Municipality for refund of certain octroi duty collected from the Company, according to it, in excess. Section 84, sub-section (3) of the C. P. Municipalities Act to which I have adverted and which is bodily reproduced in section 172 of the Maharashtra Municipalities Act fell directly for consideration before the Supreme Court. The Supreme Court held in that case that the challenge to the recovery and/or assessment of octroi duty apart from the manner which is provided in the Act is impermissible. It observed, referring to section 84, sub-section (3) that "any valuation, assessment or levy and the liability of any person to be assessed or taxed can be questioned only in the manner prescribed by, the authority mentioned, in the Act and in no other manner or any other authority". (Bata Shoe Company''s case (supra) page 958 Col. 2). The Court construed that this part of the provision is in the nature of an ouster of the jurisdiction of civil Court, at least by necessary implication.

17. There is no doubt that in all those cases in which this question has been construed either by the Supreme Court or by the Privy Council or other High Courts has arisen out of suits filed to obtain relief of repayment on the ground either that the levy or assessment was illegal or unauthorised. The contention that the jurisdiction of the Civil Courts is not ousted has in all such cases been raised on the basis of argument that the levy itself is outside the Act or is opposed to law. In the Bata Shoe Company''s case also reference was made to the decision of Bharat Kala Bhandar Ltd. Vs. Municipal Committee, Dhamangaon, and other cases. The Supreme Court emphasised the circumstance in Bharat Kala Bhandar Ltd.''s case that "the tax recovered in that case was unconstitutional and no provision of a statute could be construed as laying down that no Court shall have jurisdiction to order a refund or a tax collected in violation of a constitutional provision", which according to the Court, was a weightier reason.

18. It is true that what the Supreme Court was required to decide in Bata Shoe Company''s case was the question whether the civil Court had jurisdiction to challenge a valuation or assessment or levy of tax which was imposed by the Municipality. A question similar to one which has been raised before me did not directly arise there. It was not a case where the proceeding was by way of challenge to the decision of the authority named under the Act and which challenge though not permitted or specified under the Act was permitted under other enactments. In other words, a fine distinction was sought to be drawn between the jurisdiction of a civil Court which was clearly ousted within the purview of the Act as contemplated and a jurisdiction of a supervisory nature conferred upon the superior Court against the decisions of inferior Courts contemplated as a manner of challenge under the Act. It was urged that the manner of challenge permitted or forum mentioned in the Act where other enactments give the hierarchy of authorities and permits and clothes that Court being the superior Court with revisional and supervisory jurisdiction, that jurisdiction continues and is neither inconsistent with the Act nor is it exercised "in any other manner". Though the distinction is subtle and fine. I am of the opinion that it is without substance.

19 Before proceeding further, it would be advantageous to refer to some of the cases which stand out as land-marks in this controversy. The question whether the jurisdiction of a civil Court is other than the one mentioned in an enactment for decision on objections or disputes between the authority and citizen or subject has come to the attention of the Court since a long time and has been raised under different enactments in a number of ways. They have arisen mostly under the taxation statutes where a liability is sought to be resisted either after exhausting the forums permitted under the Act or without reference to them. I propose to refer to only some of the decisions in this behalf.

20. The first decision in which this question was to some extent considered is that reported in Raleigh Investment Co. Ltd. v. Governor General in Council 1947 P C 78. The case arose out of a suit for recovery of a sum paid by the Investment Company upon the assessment to income tax which according to the Company was ultra vires the Legislature. One of the defences which was raised on behalf of the Governor General was that section 67 of the Indian Income Tax Act was a bar to a suit. The taxing provision by which the assessment was made was contended to be ultra vires. The High Court held that the provision was ultra vires and also held that neither section 226 of the Government of India Act, 1935 nor section 67 of the Indian income tax Act barred the jurisdiction of the civil Court. The Federal Court reversed the finding holding that section 226 of the Government of India Act, 1935 barred the jurisdiction and that the provision impugned was not ultra vires. The bar of section 67 of the income tax Act was not pressed before the Federal Court.

Section 67 of the income tax Act was in these terms :

"No suit shall be brought in any civil Court to set aside or modify any assessment made under the Act....."

It has to be seen that there the jurisdiction of Civil Court was specifically sought to be ousted either to set aside or modify any assessment made under the provision of the income tax Act. But the contention was that the assessment under the provision of the Income tax Act was ultra vires the provision itself being'' ultra vires. The Judicial Committee held that the assessment made under the ultra vires statute was not a nullity and the assessment ought to be taken to proceed on a mistake of law in the course of assessment. The Judicial Committee held on examination of the relevant provisions of the Income tax Act that it gave the assessee an opportunity to raise the question under the income tax Act.

21. Referring to the provisions, it held that there was adequate machinery in the income tax Act. In its opinion, there was no difference between an incorrect apprehension of the provisions of the income tax and the invalidity of a provision. The Judicial Committee explained that if this were not so, all questions of the correctness of the assessment under the income tax Act could be brought before the Court and the section rendered otiose. Finally, it held that the income tax Act having suitable and adequate machinery, jurisdiction to question the assessment otherwise than by that machinery was, therefore, barred.

22. Turning, however, to the point in dispute both in this case Raleigh Investment Co. {supra) and in the earlier case of AIR 1940 105 (Privy Council) , a case under the Land Customs Act, 1924, there were express words barring the jurisdiction of the Civil Court and as observed by the Supreme Court in Dhulabhai and Others Vs. The State of Madhya Pradesh and Another, the presence of the section barring the jurisdiction was the main reason, and the existence of an adequate machinery for the same relief was the supplementary reason for the Privy Council to come to the conclusion to which it did.

23. I would now refer to a case reported in Kamala Mills Ltd. Vs. State of Bombay, , This was a case which arose under the Bombay Sales Tax Act, 1946, the provisions of section 20 whereof came in for consideration. Section 20 of the Bombay Sales Tax Act provided that

"20. Save as is provided in section 23, no assessment made and HO order passed under this Ad or the rules made thereunder by the Commissioner or any person appointed u/s 3 to assist him shall be called into question in any Civil Court, and save as is provided in sections 21 and 32, no appeal or application for revision shall lie against any such assessment or order."

It may be mentioned that sections 21 and 22 of the Bombay Sales Tax Act confer a right upon an assessee to prefer an appeal and revision respectively. The case arose out of a suit filed by Kamala Mills in the High Court of Bombay in the original side alleging that the levy of tax by the Commissioner and its recovery on certain

transactions of sales which were described and contended as outside sales, was erroneous; that the Company discovered that this recovery was erroneous after the decision of the Supreme Court in The Bengal Immunity Company Limited Vs. The State of Bihar and Others, and it, therefore, sought to recover that tax inasmuch as DO machinery for the refund is provided. The contention that the recovery was illegal was the main foundation of the suit. Considering the impact of section 20, the Supreme Court cited an analogous provision appearing in section 81 of the Madras General Sales Tax Act, 1939 which fell for consideration in the case of Firm and Illuri Subbayya Chetty and Sons Vs. The State of Andhra Pradesh, , wherein it was urged that the expression "any assessment made under this Act" was capable of bringing under its umbrella all assessments made by the appropriate authorities under the Act, whether the said assessments were correct or not. Considering section 20 itself, the Court observed "it seems to us plain that the words used in this section are so wide that even erroneous orders of assessment made would be entitled to claim its protection against the institution of a civil suit." The Court then concluded "in every case, the question about the exclusion of the jurisdiction of Civil Courts either expressly or by necessary implication must be considered in the light of the words used in the statutory provision on which the plea in rested, the scheme of the relevant provisions, their object and their purpose."

24. Following the decision of the Privy Council and the force of enactments excluding the jurisdiction of the civil Courts by implication, the Supreme Court pointed out, that in such cases considerations as to the machinery provided by the Act before holding that the jurisdiction is impliedly ousted are material. It observed "If it appears that statute creates a special right or a liability and provides for the determination of the right and liability to be dealt with by tribunals specially constituted in that behalf, and if further lays down that all questions about the said right and liability shall be determined by the tribunals so constituted, it becomes pertinent to enquire whether remedies normally associated with actions in civil Courts are prescribed by the said statute or not."

25. In Dhulabhai''s case (supra) propositions were laid down as determining the question whether the jurisdiction of civil Court is ousted or otherwise. That was also a case which arose under the Madhya Bharat Sales Tax Act, 1950.

Section 17 of that Act rs worded similarly to section 20 of the Bombay Sales Tax Act. The principles which were laid down in paragraphs 1, 2 and 6 in my opinion, are attracted to the circumstances of this ease. Those principles are:

(1) Where the statute gives a finality to the orders of the special tribunals the civil Courts'' jurisdiction must be held to be excluded if there is adequate remedy to do what the civil Court would normally do in a suit. Such provision, however, does not exclude those cases where the provisions of the particular Act have not been complied with or the statutory tribunal has not acted in conformity with the fundamental principles of judicial procedure.

(2) Where there is an express bar of the jurisdiction of the Court, an examination of the scheme of the particular Act to find the adequacy or the sufficiency of the remedies provided may be relevant but is not decisive to sustain the jurisdiction of the civil Court. Where there is no express exclusion the examination of the remedies and the scheme of the particular Act to find out the intendment becomes necessary and the result of the inquiry may be decisive. In the latter case, it is necessary to see if the statute creates a special right or a liability and provides for the determination of the right or liability and further lays down that all questions about the said right and liability shall be determined by the tribunals so constituted, and whether remedies normally associated with actions in civil Courts are prescribed by the said statute or not.

* * * *

(6) Questions of the correctness of the assessment apart from its constitutionality are for the decision of the authorities and a civil suit does not lie if the orders of the authorities are declared to be final or there is an express prohibition in the particular Act. In either case the scheme of the particular Act must be examined because it is a relevant inquiry.

* * * *

During the course of its judgment, the Constitution Bench consisting of 5 judges in Dhulabhai''s case (supra) referred to the decision in Firm of llluri Subbayya Chetty''s case (supra) wherein it was pointed out that any challenge to the correctness of the assessment must be made before the appellate or revisional forums under the same Act since the character of the transaction was a matter into which the appellate and revisional authorities could go.''

26. It seems to me that the liability for payment of tax and the corresponding right to impose a tax are created and conferred by the Statute. It is a statutory right and statutory obligation. To decide the disputes arising out of this statutory right and statutory obligation, the law has provided a procedure and the authorities or forums which are created for the resolution of those disputed are under the Act. The circumstance that existing authorities under any other enactment have been referred or invested with he jurisdiction to decide the dispute under the Act, does not by itself cease to make them creatures or authorities under the Act. They are, therefore, creations of the enactment which created both the right and the obligation. Entrustment of the function to such authorities in such cases is under that enactment. In my opinion, it would be erroneous to import the entire machinery under that enactment or hierarchy of authorities under that Act into this Act as if they are a part of it. That would amount to writing those provisions relating to such a machinery in the charging Act. It cannot be said that apart from those authorities or forums named in the Act, there are other forums or Authorities expressly named under the Act. It would be difficult in such cases to do indirectly

what cannot be done directly namely, by implication or recourse to other enactments importing further authorities or forums not contemplated or permitted by the Act. Therefore, if a further revision application from the decision of Sessions Court is not expressly referred to or contemplated by the Maharashtra Municipalities Act, it would not be possible in my opinion, to bring any right to file a revision application against the decision of the Sessions Court to the High Court in it by implication.

27. The statute creating the liability as well as the right, has also created a procedure for adjudication of disputes arising therefrom. The manner of referring to this adjudicatory processes for the solution of the disputes is also prescribed. It would, therefore, follow that, that is the manner which is provided in the Act. I do not think that any other manner could be imported by implication to be also the process of adjudication provided in the Act by recourse to another extraneous enactment. Where an attempt is made to have the same challenge brought up and raised in any manner other than the one provided in the Act for adjudication, is an objection taken to the assessment "in any other manner" than the provided under the Act and, therefore, outside the pale of the Act.

28. I am also inclined to think that the sweep of the expression "in any other manner" is so wide and sweeping, that it would sweep away all other manners of challenge which can be contemplated by implication. The intendment seems to be clear that barring the express manner of raising an objection, any other manner for the solution of disputes in regard to rights and obligations is excluded.

29. I am inclined to think that the expression "in any other manner" being so wide is thus capable of excluding all other forums and manner of adjudication or challenge other than that prescribed by the Act, as held by the Supreme Court in Bata Shoe Company''s case (supra). After referring to Dhulabhai''s case and other cases to which I had made a reference and referring specifically to section 84 (3) of the C. P. and Berar Municipalities Act equivalent to section 172 of the Maharashtra Municipalities Act the Supreme Court observed "if a provision merely giving finality to an order could be construed as ousting the Civil Court''s jurisdiction, section 84 (3) of the Act, which is far more expressive can legitimately be construed to have the same effect. It excludes in terms a challenge to the various things therein mentioned, in any other manner or by any other authority than is provided in the Act." This expression in my opinion by the Supreme Court on the effect of section 84 and its wide amplitude sweeps away a further challenge by way of revision application. In my opinion, by a revision application to this Court the challenge is "in any other manner" not contemplated or permitted by the Act. There also the scheme of the Act was considered to see whether as suggested in Dhulabhai''s case (supra) it provided an adequate opportunity to the persons nominated under the Act "to do what the Civil Courts would normally do." As I pointed out, that was a case where the suit was brought in the Civil Court. The question before us here is of a

challenge "in any other manner" and not of a different jurisdiction.

30. It seems to me however, that the answer to that contention is also to be found in Dhulabhai''s case. Referring to the powers of the Tribunal and authorities and even the High Court in an income tax reference it was pointed out as held in K.S. Venkataraman and Co. Vs. State of Madras, that the Tribunals or forums created under the statute cannot question the validity of the enactment and have to take the provision as valid and legal. A challenge to the provision on the basis that the provision is ultra vires is outside its scope and jurisdiction. Such a challenge could be contemplated by an extra statutory jurisdiction like the Civil Court.

31. In our case the challenge is not to the provision, but to the correctness of assessment and its validity. Such a challenge by implication must go before the forums or the Tribunals only as contemplated by the Act. By taking a further revision application against the decision of Sessions Court it would be nothing but adding the forums and reading into the Act something which is not there. I do not think that this can be permitted.

32. I will now briefly refer to the Morshi Municipalities case. In that case both the Courts below held that the assessment was illegal for want of individual notice to the assessee. In a revision application filed to this Court the question which was dealt with was the scope of powers u/s 169 of the Act. No arguments were advanced and the question was not decided as to the maintainability of a revision application. The Division Bench proceeded on the footing that a revision application lay to it. I do not think that such an implied assumption can be held to mean that this Court held the revision application to be maintainable.

33. On a consideration of the question and various decisions, I am inclined to think that the concept of the expression "in any other manner" takes into its ambit and purview other manners of challenge and objection to the correctness and validity of assessment of levy, other than the ones specified under the Act. Further revision application, therefore, from the decision of the Sessions Judge to whom appeals lie from the decision of a Magistrate, as contemplated in sections 159 and 171 of the Maharashtra Municipalities Act is not permissible. Consequently, these revisions must be held to be not maintainable and are dismissed. Hence the order.

34. Revision applications are dismissed. There will be no order as to costs under the circumstances.