

Baburao Narayanrao Sanas

Vs

The Union of India

Petition No. 316 of 1954

(M. C. Mahajan, T. L. Venkatarama Ayyar, Ghulam Hasan, S. R. Dass, N. H. Bhagwati, JJ)

21.10.1954

JUDGMENT

MEHR CHAND MAHJAN, C.J. -

The petitioner in this case is a resident of Poona in the State of Bombay. During the eight years beginning with 1940-41 and ending with 1947-48 he was assessed on a total income of Rs. 9,75,265. The Central Government, thinking that he had evaded payment of tax and had concealed substantial profits, in the year 1948 referred his case for investigation to the Commission acting under the provisions of Section 5(1) of the Taxation on Income (Investigation Commission) Act, 1947. The Commission was directed to investigate what profits he had made during the period commencing with 1st of January, 1939, and ending on 31st December, 1947. After investigation, the Commission, by their report dated 1st May, 1953, held that the total income which escaped taxation during the relevant years was in the sum of Rs. 2,26,900 and the assessee's liability was in the sum of Rs. 1,96,175.

During the investigation the petitioner made an application for settlement of his liability under the provisions of Section 8-A of Act XXX of 1947. The Government accepted the request and entered into a settlement with him and directed the Income-tax Officer to enforce payment of the evaded tax according to the terms and conditions of the settlement. The petitioner once again requested that the amount due be received from him by easy instalments of Rs. 25,000 each. The Government of India, by its order dated the 28th July, 1952, agreed to recover the amount due in three instalments, i.e., Rs. 50,000 by 1st March, 1954, Rs. 50,000 by 1st March, 1955, and Rs. 96,175 by 1st March, 1956. The petitioner finally applied that the amount due from him be recovered in ten yearly instalments. It was at this stage that perhaps in view of the decision of this Court in Suraj Mal Mohta's case the petitioner was advised to prefer this application on the allegations that the procedure taken against him and resulting in the imposition upon him of the liability of Rs. 1,96,175 was wholly illegal, ultra vires, void and unconstitutional. The grounds on which these allegations were made are the same as were raised by the petitioner in Petition No. 315 of 1954 (Dewan Bahadur Seth Gopal Das Mohta v. The Union of India and Others). For the reasons given by us in our judgment in that petition we are of the opinion that this petition is misconceived. As pointed out therein, the liability of the petitioner to pay evaded tax arises now under the settlement voluntarily entered into by him with the Central Government and such a settlement cannot be questioned by preferring a petition under Article 32 of the Constitution.

The result is that this petition fails and is dismissed with costs.

Petition dismissed.

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