

Dibrugarh Co. Ltd.

Vs

Collector of Dibrugarh and another

C.A. No. 247 of 1992

(M. N. Venkatachaliah, S. C. Agrawal JJ)

24.01.1992

JUDGEMENT

S. C. AGRAWAL, J.:-

1. Dibrugarh Co. Ltd. filed S.L.P. (C) No. 9354/83 against the judgment and order dated December 21, 1982 of the Gauhati High Court in Civil Rule No. 194 of 1982: (reported in (1983) 2 Gauhati LR 123). The said special leave petition was dismissed by order dated September 5, 1983. The said company filed Review Petition No. 618 of 1984 against the said order of this Court dismissing the special leave petition. Since there was delay in filing of the review petition, an application for condonation of delay in filing the review petition has also been filed.
2. The said judgment dated December 21, 1982 in Civil Rule No. 194 of 1982: (reported in (1983) 2 Gauhati LR 123) was relied upon by the High Court subsequently in its judgment and order dated June 1, 1983 in Civil Rule No. 876 of 1981 Sarojini Tea Co. (P.) Ltd. v. Collector of Dibrugarh, Assam. Civil Appeal No. 6650 of 1983 : (reported in AIR 1992 SC 1264) filed against the said judgment of the High Court dated June 1, 1983, has been partly allowed by this Court in judgment pronounced today wherein we have disagreed with the view of the High Court that 'surcharge' levied under the Assam Land Revenue and Rent (Surcharge) Act, 1970, is a levy distinct from land revenue and it cannot be treated as a part of 'annual land revenue' for the purpose of assessing compensation payable under S. 12 of the Assam Fixation of Ceiling on Land Holdings Act, 1956.
3. Keeping in view the facts and circumstances of the case, we consider it appropriate in the interest of justice to condone the delay in filing of the review petition and to allow the review petition. The delay in the filing of the review petition is, therefore, condoned, the review petition is allowed and the order dated September 5, 1983 dismissing the special leave petition is set aside. Special leave is granted.
4. We have heard the learned counsel for the parties.
5. The matter is fully covered by our decision in C.A. No. 6650 of 1983: (reported in AIR 1992 SC 1264), Sarojini Tea Co. (P.) Ltd. v. Collector of Dibrugarh, Assam, and for the reasons given in the said judgment, the appeal is partly allowed and the judgment of the High Court to the extent it holds that 'surcharge' is a levy different and distinct from land revenue is set aside and it is held that the surcharge payable on land revenue under the Assam Land Revenue and Rent (Surcharge) Act, 1970 constitutes land revenue and has to be taken into account for assessing compensation u/ S. 12 of the Assam Fixation of Ceiling on Land Holdings Act, 1956. The view of the High Court that the local rate payable under the Assam Local Rate Regulation, 1879 is to be excluded for the purposes of

assessing such compensation is upheld. The order of the High Court setting aside the judgment and order of the District Judge, dated November 25, 1981 in Misc. Appeal No. 2 of 1981 is maintained. The matter will go back to the District Judge, Dibrugarh, for redetermination of compensation payable to the appellant in Misc. Appeal No. 2 of 1981 in accordance with law. The parties are left to bear their own costs.

Order accordingly

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