Mohammad Ali Khan and Others

Vs

Commissioner of Wealth-Tax.

Civil Appeal No. 5352 (NT) of 1983

(M. M. Punchhi, G. B. Pattanaik, K. T. Thomas JJ)

04.03.1997

JUDGMENT

G.B. PATTANAIK J. –

1. In this appeal by grant of certificate by the Delhi High Court (see [1983] 140 ITR 948), interpretation of section 5(1)(iii) of the Wealth-tax Act, 1957 (hereinafter referred to as "the Act"), is involved. On an application being filed under section 27(1) of the Act the Tribunal referred the following question to the High Court for being answered (at page 950) :

> "Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the buildings of the Khas Bagh Palace which were let out to different persons from whom rental income was received by the assessee were not in the occupation of the assessee within the meaning of section 5(1)(iii) of the Wealth-tax Act, 1957, and hence the value thereof was includible in the net wealth of the assessee ?"

The assessee, the late H.H. Nawab Sir Syed Raza Ali Khan, Nawab of Rampur, is the owner of Khas Bagh Palace. The said Palace was declared by the Central Government in exercise of the powers under paragraph 13 of the Merged States (Taxation Concessions) Order, 1949, to be the official residence of the Ruler. During the assessment year 1961-62, the assessee claimed exemption of the aforesaid Palace in the computation of the wealth under the Wealth-tax Act under section 5(1)(iii) of the Act. The Wealth-tax Officer on consideration of the materials before him came to the conclusion that the Palace having consisted of a number of buildings, the assessee would be entitled to exemption only in respect of the building or the portions of the building which is in the occupation of the Ruler and on the said conclusion he found that the estimated market value of several buildings which had been let out, to be Rs. 3,55,000. This valuation obviously he found out on the basis of the rental income derived by the assessee. He accordingly took that into consideration in the computation and levying wealth-tax on the same. Being aggrieved by the order of the officer, the assessee moved an appeal and the Assistant Commissioner in appeal as well as the Tribunal in second appeal confirmed the assessment made. But on an application being filed under section 27 of the Act, the Tribunal made the reference of the question, as already stated. The High Court in the impugned decision came to the conclusion that a restrictive interpretation of section 5(1) of the Act would disentitle the assessee to any exemption since the building in question is not

under the occupation of the Ruler fully. It also came to the conclusion that a liberal interpretation of the said provision would entitle the assessee to exemption to the extent the assessee occupies the building or the portion of the building and, therefore, the liberal interpretation should be preferred. With this finding, the High Court answered the question referred to it in favour of the Revenue and against the assessee.

Mr. Sharma, learned counsel appearing for the appellant, contended that the expression "any one building" in section 5(1)(iii) is not susceptible of an interpretation by making a further dissection to import into it the portion of the building or whole of the building, as that would tantamount to a fresh legislation which the court is not empowered to do. According to learned counsel, the Central Government having declared the Khas Bagh Palace to be the official residence of the assessee in exercise of power under paragraph 13 of the Merged States (Taxation Concessions) Order, 1949, the said building would be excluded from the purview of the Act by virtue of section 5(1)(iii) of the Act. This being the position, the High Court committed an error in answering the question posed in favour of the Revenue. Learned counsel urged that in interpreting the taxing statute it is not permissible for the court to look to the policy behind the statute and the court would be entitled to give a plain meaning to the words used in the statute. In support of this contention reliance was placed on the decisions of this court in Jupudi Kesava Rao v. Pulavarathi Venkata Subbarao, AIR 1971 SC 1070; [1971] 1 SCC 545, and Baidyanath Ayurved Bhawan Pvt. Ltd. v. Excise Commissioner, AIR 1971 SC 378; [1971] 1 SCC 4. It is, therefore, urged that on a plain literal meaning being given to each part of section 5(1)(iii), the said provision is susceptible of only one construction, namely, that the building which has been declared by the Central Government to be the official residence of the Ruler cannot be induced in the assets of the assessee for the purpose of determining the wealth-tax payable by an assessee.

Dr. Gauri Shankar, learned senior counsel appearing for the Revenue, on the other hand, contended that in interpreting section 5(1)(iii) of the Act, the expression "in the occupation of a Ruler" has to be borne in mind and if each and every word used in section 5(1)(iii) of the Act is given its literal grammatical meaning then the only conclusion possible is that the building or the part of the building in the occupation of the Ruler and which has been declared by the Central Government as the official residence of the Ruler would be exempted under the said provision.

In order to appreciate the rival contentions it would be appropriate to notice section 5(1)(iii) of the Act :

> "5. (1) Wealth-tax shall not be payable by an assessee in respect of the following assets, and such assets shall not be included in the net wealth of the assessee - . . .
>
> (iii) any one building in the occupation of a Ruler declared by the Central Government, as his official residence under paragraph 13 of the Merged States (Taxation Concessions) Order, 1949, or paragraph 15 of the Part B States (Taxation Concessions) Order, 1950."

It is a cardinal principle of construction that the words of a statute are first understood in their natural, ordinary or popular sense and phrase and sentences are construed according to their grammatical meaning, unless that leads to some absurdity or unless there is something in the context or in the object of the statute to suggest the contrary. It has been often held that the intention of the Legislature is primarily to be gathered from the language used, which means that attention should be paid to what has been said, as also to what has not been said. As a consequence, a construction

which requires for its support, addition or substitution of words or which results in rejection of words as meaningless, has to be avoided. Obviously, the aforesaid rules of construction are subject to exceptions. Just as it is not permissible to add words or to fill in a gap or lacuna, similarly it is of universal application that effort should be made to give meaning to each and every word used by the Legislature. In J.K. Cotton Spinning and Weaving Mills Co. Ltd. v. State of U.P. [1960-61] 19 FJR 436; [1961] 3 SCR 185; AIR 1961 SC 1170, 1174, it was observed by this court : (at page 442 of 19 FJR) :

> ". . . the courts always presume that the Legislature inserted every part thereof for a purpose and the legislative intention is that every part of the statute should have effect."

In the case of taxing statutes, it has been held by this court in several cases that one must have regard to the strict letter of the law and if the Revenue satisfies the court that the case falls strictly in the provisions of law, the subject can be taxed. This being the position, a fair reading of section 5(1)(iii) of the Act would reveal that only the building or the part of the building in the occupation of the Ruler, which has been declared by the Central Government to be the official residence under the Merged States (Taxation Concessions) Order, 1949, will not be included in the net wealth of the assessee. The contention advanced by learned counsel for the appellant that once a building has been declared as the official residence and a portion of the said building is under occupation of the assessee then the said building should come under the purview of section 5(1)(iii) of the Act even if a substantial portion of the same has been rented out by the assessee to tenants or for any other purpose would make the expression "in the occupation of a Ruler" redundant and those words in the provision would not have their play.

We have carefully considered the principles of construction of statutes enunciated by this court in the decisions cited by learned counsel for the appellant and we do not find any principle stated therein which is contrary to the principle we have adopted in this case in interpreting section 5(1)(iii) of the Act. In the aforesaid premises, we are of the considered opinion that the High Court rightly answered the question posed in favour of the Revenue and against the assessee and the said judgment of the High Court does not require any interference by this court.

This appeal is accordingly dismissed. But, in the circumstances, there will be no order as to costs.