The Federation of Andhra Pradesh Chambers of Commerce and Industry and Ors. etc.etc.

Vs

State of Andhra Pradesh and Ors. etc. etc.

Civil Appeal No. 1039 of 2000 etc.

(Mr. S.P. Bharucha, Mr. S.S. Mohammed Quadri and Mr. N. Santosh Hegde, JJ.)

04.08.2000

JUDGMENT

S.P. Bharucha, J.:— Leave granted in S.L.P. (C) No. 2877 of 1998.

A bench of five Judges of the Andhra Pradesh High Court interpreted the word "used" in the Andhra Pradesh Non-Agricultural Lands Assessment Act, 1963 ("the said Act") to mean "non-agricultural lands no only "actually used" but are "meant to be used" or "set apart for being used". This view is contested in these appeals by some industries in Andhra Pradesh and, with permission, by their Federation.

The said Act was enacted to provide for the levy of assessment on lands used for non-agricultural purposes. Section 2(d) defines 'industrial purpose', so far as it is relevant to these appeals, to mean "any purpose connected with an industrial undertaking where the process of manufacturing any article is carried on with the aid of power..." 'Non-agricultural land' is defined by Section 2(g) to mean "land other than the land used exclusively for the purpose of agriculture..." Section 3 of the said Act is the charging section and, so far as it is relevant, reads thus:

"3. Levy of assessment on non-agricultural lands:— In the case of non-agricultural land in a local area with the population specified in column (1) of the Schedule, there shall be levied and collected by the Government for each fasli year commencing on the first day of July, from the owner of such land, an assessment, at the rate specified in column (2) where the land is used for any industrial purpose, at the rate specified against it in column (3) where the land is used for any commercial purpose and at the rate specified against it in column (4) where the land is used for any other non-agricultural purpose including residential purpose".

The Schedule that is referred to in Section 3 sets out the rates of assessment per square metre of land used (a) for industrial purposes per fasli year, (b) for commercial purpose per fasli year and (c) for any other non-agricultural purpose, including residential purpose, per fasli year.

The question with which we are concerned came up first before the Andhra Pradesh High Court in the case of S.V. Cement Ltd. vs. Revenue Divisional Officer, Nandyal and Ors. (1993 (2) ALT 32) and a bench of three learned Judges held:

"In the context it is susceptible of wider meaning. The word "used" means not only "actually used", but it also means any land meant to be used or set apart for being used. The definitions of "industrial purpose" and "commercial purpose" also lend support to the wide meaning given to the word "used". "Industrial purpose" means any purpose connected with industrial undertaking. Likewise,

"commercial purpose" means the purpose connected with the undertaking in trade, commerce or business. The definitions do not say that the non-agricultural land should be actually utilised for an industrial or commercial activity, but it is enough if the land is kept for use for a purpose connected with industrial or commercial undertaking".

A bench of two learned Judges of the Andhra Pradesh High Court took the view that the judgment in S.V. Cement Ltd. required reconsideration. Accordingly, the writ petitions in which the question was raised was placed before the bench of five learned Judges. They held that the word 'used' had to be interpreted to connote a wider meaning. If that interpretation was adopted, non-agricultural lands not only actually used for industrial purposes but those meant to be so used or set apart for being so used were also liable to assessment as such under the said Act. It was contended before them, based on the celebrated judgment in the case of Cape Brandy Syndicate vs. Inland Revenue Commissioners, (9) 1921-8 KB 64(71), and a judgment of this Court, that fiscal legislation had to be strictly interpreted, and if two interpretations were possible, the one favourable to the assessee would prevail. The learned Judges found that "the contention that the word 'used' has to be given the limited meaning 'actually used' is not in tune with the intendment of the legislature.. The legislature had intended the word 'used' to mean to be used or set apart for being used". Accordingly, the view taken in the case of S.V. Cement Ltd. was affirmed.

Section 3 of the said Act speaks of "land is used for any industrial purpose", "land is used for any commercial purpose" and "land is used for any other non-agricultural purpose". The emphasis is on the words `is used'. For the purposes of levy of assessment on non-agricultural lands at the rate specified in the Schedule for land used for industrial purposes, therefore, there has to be a finding as a fact that the land is in fact in praesenti in use for an industrial purpose. The same would apply to a commercial purpose or any other non-agricultural purpose.

It is trite law that a taxing statute has to be strictly construed and nothing can be read into it. In the classic passage from Cape Brandy Syndicate, which was noticed in the judgment under appeal it was said:

"In a taxing Act one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to a tax. Nothing is to be read in nothing isto be implied. One can look fairly at the language used".

This view has been reiterated by this Court time and again. Thus in The State of Bombay vs. Automobile and Agriculture Industries Corporation Bombay, (1961 12 S.T.C. 122), this Court said:

"But the courts in interpreting a taxing statute will not be justified in adding words thereto so as to make out some presumed object of the Legislature... If the Legislature has failed to clarify its meaning by the use of appropriate language, the benefit thereof must go to the taxpayer. It is settled law that in case of doubt, that interpretation of a taxing statute which is beneficial to the taxpayer must be adopted".

On behalf of the respondent-State, learned counsel drew our attention to the judgment of this Court in The Controller of Estate Duty Gujarat vs. Shri Kantilal Trikamlal (1976 4 SCC 643). That judgment also is to the same effect and does not avail the respondents. It said:

"The sweep of the sections which will be presently set out must therefore be informed by the language actually used by the legislature. Of course if the words cannot apply to any condite species

of properly, courts cannot supply new logos or invent unnatural sense to words to fulfil the unnexpressed and unsatiated wishes of the legislature".

We are in doubt whatever therefore, that it is only land which is actually in use for an industrial purpose as defined in the said Act that can be assessed to non-agricultural assessment at the rate specified for land used for industrial purposes. The wider meaning given to the word ‘used’ in the judgment under challenge is untenable. Having regard to the fact that the said Act is a taxing statute, no court is justified in imputing to the legislature an intention that it has not clearly expressed in the language it has employed.

In the result, the appeals are allowed and the judgment and order under challenge is set aside in so far as it deals with the interpretation of the word ‘used’ in Section 3 of the said Act.