

Raja Enterprises Vs. State of Karnataka and Another

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Court : Karnataka

Decided On : Dec-01-2000

Reported in : ILR2001KAR268; 2001(4)KarLJ130

Judge : P.V. Reddi, C.J. and ;A.M. Farooq, J.

Acts : [Karnataka Municipal Corporations Act, 1976](#) - Sections 112(3) and 147 - Rule 20

Appeal No. : Writ Appeal No. 5845 of 2000 (LB-Tax)

Appellant : Raja Enterprises

Respondent : State of Karnataka and Another

Advocate for Def. : Sri M.H. Motigi, Government Advocate and Sri Ashok Haranahalli, Adv.

Advocate for Pet/Ap. : Sri Udaya Holla, Adv.

Judgement :

P.V. Reddi, J.

1. Aggrieved by the Special Demand Notice dated 25-1-1992 issued under Section 147 of Schedule III, Part 11(9) of the [Karnataka Municipal Corporations Act, 1976](#) (hereinafter referred to as the 'Act') demanding property tax of Rs. 4,12,617-25

with effect from 1-10-1991 the appellant preferred a revision before the concerned authority. The concerned authority of the Corporation declined to interfere with the impugned notice. Thereupon, an appeal was filed to the Taxation and Appeals Committee of the Corporation. That appeal was rejected by a cryptic order. Thereupon, appellant preferred a further appeal to the District Judge in Miscellaneous Appeal No. 105 of 1998. The learned VI Additional City Civil Judge, Bangalore by an order dated 17-6-2000 rejected the appeal as not maintainable on the ground that the entire tax levied has not been paid. The appellant then preferred a writ petition in W.P. No. 25531 of 2000. By an order dated 30-8-2000, the learned Single Judge dismissed the writ petition.

2. It appears, before the learned Single Judge, the order of the District Judge was not specifically questioned though a ground was raised. It does not appear that the correctness of the view taken by the District Judge has been challenged before the learned Single Judge. The argument turned more on the correctness of the demand raised. The learned Single Judge held that the taxation on annual rental value and the assessment in consequence thereof cannot be said to be unreasonable. The learned Single Judge also dealt with the other contentions raised as regards the validity of Rule 20(a) of the Taxation Rules in Schedule III.

3. The decision in Civil Revision Petition No. 2637 of 1996 relied upon by the Appellate Judge has not considered the effect of the explanation to Rule 20(a). The only aspect which was decided by the learned Single Judge was whether the deposit of the amount beyond 30 days would be sufficient compliance with Rule 20(a) of the Rules. That question does not really arise here in view of the specific finding of the District Judge that the tax has been paid within the time-limit, though not to the full extent.

4. We are of the view that the learned District Judge was not right in rejecting the appeal as not maintainable. The appellant claims to have paid a sum of Rs. 2,36,000/- representing property tax leviable under special notice which was the subject-matter of the appeal.

5. Section 112(3) of the Act provides that the property tax is payable by the person primarily liable within 60 days after the commencement of every half year. It is not

in dispute that the tax of Rs. 4,12,617/- as specified in the special notice based on the rental value for 1991-92 is for the full year. If so, it could be paid in two half-yearly instalments. The explanation to Rule 20(a) of the Rules is therefore attracted. Explanation 20(a) reads thus:

'Explanation.--In the case of a tax leviable by half-yearly instalments, the requirement of this clause as to payment of tax shall be deemed to have been satisfied if the half-yearly instalment due under the order appealed against has been paid'.

Obviously, the effect of this explanation has not been considered by the learned District Judge. The learned Judge even made a passing observation in para 6 of the order which goes to suggest that the appellant is required to pay the entire arrears of property tax due for some other years also. This extreme view taken by the District Judge cannot be sustained. Such a view goes contrary to the terms of Rule 20(a) read with explanation referred to above. We are therefore of the view that the District Judge erred in dismissing the appeal as not maintainable on the ground of non-compliance with requirements of Rule 20(a) as to pre-deposit of property tax. We consider that this is a fit case to direct the District Judge to hear the appeal on merits on being satisfied that 50% of the tax demanded under special notice referred to supra had been paid. The view expressed by the learned Single Judge as regards the merits of assessment shall not influence the decision of the Appellate Authority while considering the case on merits.

Writ appeal is accordingly disposed of. No costs.