

Surjan Lal Vs. Emperor

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Court : Allahabad

Decided On : Jan-30-1929

Reported in : AIR1929All278

Appellant : Surjan Lal

Respondent : Emperor

Judgement :

Dalal, J.

1. I do not agree with the opinion of the learned Sessions Judge The applicant has been convicted of bringing out of the limits of the Jhansi Municipal Board certain parts of a motor car, without paying octroi duty. The learned Judge held that these parts were chargeable with duty, because under Sub-section 16, Section 132, Municipal Account. Code, motor cars complete are exempted from payment of octroi but not parts and accessories of motor cars. This means that the Municipality is prepared to admit a camel but will strain at a gnat. On behalf of the accused it is argued that he can obtain exemption under Sub-section 14, which exempts from octroi duty machinery and its component parts. Machinery is defined as a machine or a set of machines to be worked by electric, steam, water, fire or other power not being manual or animal labour. The machine of a motor car will certainly be included under this head together with its component parts. The argument of the learned Judge, however, was and it has been put before this

Court in greater detail by the learned Assistant Government Advocate that as motor car has been specifically mentioned, we must not look at the other heading of machinery. This method of looking only at one portion of the Municipal Code and closing one's eyes at any other portion is a fanciful method of interpreting rules. A water tight compartment rule cannot be a correct one for interpretation. Persons subject to taxation are entitled to exemption under any head under which such exemption may be claimed. It is true that as the parts of motor cars are not exempted from duty, the curious result will follow that parts of the body of a motor car will be liable to duty but parts of the machine of a motor car being exempted under Sub-section 14, will not be. [hold that such parts are not liable to duty.

2. All the revision applications shall be considered in accordance with this rule. In this revision No. 821 a cylinder head was imported. This is clearly part of a machine and exempted under Sub-section 14. I set aside the conviction and sentence and order the fine if any recovered to be refunded.

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