State of Maharashtra Vs. New Delhi Municipal Commitiee

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Court : Delhi

Decided On : Feb-11-1987

Reported in : 31(1987)DLT345

Judge : Sunanda Bhandare, J.

Acts : Constitution of India - Article 226

Appeal No. : Civil Writ Petition No. 227 of 1974

Appellant : State of Maharashtra

Respondent : New Delhi Municipal Commitiee

Advocate for Pet/Ap. : Y.R. Sharma and; R.K. Agarwal, Advs

Judgement :

Sunanda Bhandare, J.

(1) This petition under Articles 226 and 227 of the Constitution of India is directed against the notices dated 4th January 1972, 8th January 1973 and resolutions dated 18th March 1972 and 1st March 1973 leving property tax for the assessment year 1972-1973 in respect of building owned by the State of Maharashtra.

(2) The petitioner has challenged the notices and the resolutions mainly on the ground that the property of the State Government was exempt under Article 289(1)

of the Constitution of India from house-tax livable under the Municipal Act, 1911 as applicable to Union Territory of Delhi.

(3) The point in question is covered by the Division Bench judgment of this Court in New Delhi Municipal Committee v. The State of Andhra Pradesh & Others. 1975 M.C.C. 616 wherein relying on the judgment of the Supreme Court in Re: The Bill to Amend S.20 of the Sea Customs Act, 1878 and S. 3 of the Central Excise & Salt Act, 1944. : [1964]3SCR787 it has been held that the property tax levied by the committee under the Punjab Municipal Act as applicable to the Union Territory of Delhi would be a part of Union Taxation and the property of the State Government would, thereforee, be exempt from such taxation by virtue of the provisions of Article 289(1) of the Constitution of India.

(4) Learned counsel for the respondent however states that the judgment of the Division Bench of this court in the case of New Delhi Municipal Committee (supra) is under challenge in the Supreme Court and the Supreme Court has permitted the respondent-committee to assess the properties but restrained it from recovering tax and the petition is still pending in the Supreme Court. In any event, I am bound by the Division Bench judgment of this Court in New Delhi Municipal Committee's case (supra) and the impugned notices and resolutions have to be held to be against authority of law.

(5) In the result the petition is allowed. The impugned notices dated 4th January 1972, 8th January 1973 and resolutions dated 18th March 1972 and 1st March 1973 in respect of Unit no 8, Block A of State Emporia Building at Irwin Road, New Delhi are set aside. There will be no order as to costs.