

C. Jayaram Naidu Vs. Emperor

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Court : Chennai

Decided On : Apr-01-1932

Reported in : AIR1932Mad564

Appellant : C. Jayaram Naidu

Respondent : Emperor

Judgement :

ORDER

Walsh, J.

1. In this case the accused pleaded guilty and I am not prepared in revision to go into the allegation that the Court misunderstood him. There is however one point raised that with regard to the license for the second half of 1929-30 the prosecution is barred by limitation Under Section 392, City Municipal Act, having been instituted only on 7th November 1930. That section runs.

No person shall be liable to be tried for any offence against any of the provisions of this Act or of any rule, bye-law, regulation or order made under it, unless complaint is made before a Magistrate within six months after the commission of the offence:

Provided that failure to take out a license, obtain permission or secure registration under this Act shall for the purposes of sub-(1) be deemed a continuing offence

until the expiration of the period, if any for which the license, permission or registration is required, and if no period is specified, complaint may be made at any time within 12 months from the commencement of the offence.

2. The notice in the present case for the half year was sent on 3rd September 1930 and the accused did not reply to it. It seems to me clear that on this the demand became effective after the time for making objection had expired and the complaint being instituted on 7th November 1930 was in time. *Veeraraghavulu v. President, Corporation of Madras* [1911] 34 Mad. 130, is clear authority for this position. In that case the petitioner's name appeared in the classification made Under Section 121, Madras City Municipal Act and he was served with a notice to pay profession-tax Under Section 125 of the Act; he did not pay the tax, nor did he apply for revision within 15 days of the notice; and it was held that the assessment was final and that no appeal lay: *Prince of Arcot v. Corporation of Madras* A.I.R. 1930 Mad. 200 quoted for the petitioner is not in point at all. That was not a criminal case. In that case the appellant had been assessed to profession-tax in a certain sum for the first half-year of 1926-27 and in a like sum for each of the eleven previous half years also. He had objected to the whole demand. The Standing Committee of the Corporation decided against him. He appealed to the Chief Judge of the Court of Small Causes, Madras, and at the request of the assessee the Chief Judge referred certain questions to the High Court.

3. Therefore that was not a case at all where the assessment had become final on failure to object to it. In fact the decision was given in the regular procedure laid down for determining such assessments. Even accepting the petitioner's contention that on the remarks at p. 879 of that judgment, the tax on carriages and animals is another instance of a license fee described as a tax and that therefore the license fee in the present case is a tax which is of course the view most favourable to the petitioner, it seems to me clear that, once objection has not been taken to the assessment, that assessment becomes final, even though it might have been successfully objected to in time. To hold otherwise it appears to me would mean that criminal Courts should investigate into the 'correctness of the assessments. It is obviously not proper for assessees to raise no objection within the time prescribed in the notice and then plead, when prosecuted in criminal

Courts that the assessment is not correct. I do not see any reason to interfere in revision in this case. The petition is dismissed.

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