

In Re: Hilton Brown

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SooperKanoon Citation : sooperkanoon.com/810265

Court : Chennai

Decided On : Dec-08-1937

Reported in : AIR1938Mad462

Appellant : In Re: Hilton Brown

Judgement :

ORDER

Stodart, J.

1. Mr. Hilton Brown was Collector of North Arcot with headquarters at Vellore, in the year 1934 and he went to England on leave on 5th July 1934. For the half year, 1st April 1934 to 1st October 1934, he became liable to profession tax and education tax and he was assessed on the basis of the emoluments he received from the Government during that period, 1st April 1934 to 1st October 1934, including, that is to say, the salary paid to him at some places out of India for the period from 5th July 1934 to 1st October 1934. He has however paid tax on the basis of salary received from 1st April 1934 to 5th July 1934, namely the period when he was in India. The Municipal Council filed a small cause suit against him for the balance and the suit has been decreed in his absence. He sent a written statement by post from England but this was rejected¹ which of course was perfectly correct. I am told however that no evidence was given on behalf of the plaintiff Municipality and I am asked on that ground to-set aside the decree and order a retrial when Mr. Hilton Brown would of course-have an opportunity of

stating his case. But I do not think there is any use ordering a retrial because I think the petition is bound to fail on the merits. Mr. Hilton Brown's profession tax must be calculated on his half yearly income and there is an end of it.

2. The argument that only that part of the income must be adopted as the basis of assessment which was actually received in India is based on Rule 18 and 19, Schedule 4, District Municipalities Act. Rule 18 provides in the case Of business concerns that the basis of the half yearly assessment shall be not the actual income derived from the business during that half year but one-half of the profits of the whole year which have been accepted as the basis of the assessment of the annual income-tax. For instance if a company or an individual trader earns Rs. 1200 in the first half year and Rs. 3000 in the second half year he is not assessed as in Class 9 for the former and as in Class 7 for the latter period. But his total income is taken as Rs. 4200 and he is assessed on each half year in Class 8 on the footing that his income is Rs. 2100 for each half year. Again the explanation to Rule 19 makes it obligatory on the Municipality to accept for the purpose of assessing profession tax the figures accepted by the income-tax authorities for the purpose of assessing income-tax.

3. Now, on the emoluments drawn by Mr. Hilton Brown after he left India on 5th July 1934, he was not liable to pay Indian income-tax. Therefore he argues that portion of his salary cannot be taken into account as part of the half yearly salary arising from his profession. But surely profession tax is payable whether income or gain arising from the profession is capable of being assessed to income-tax or not I do not think it would serve any useful purpose to reopen the case. Petition dismissed. Written and pronounced in Court.