

MUNICIPAL CORPORATION OF GREATER BOMBAY

v.

MAFATLAL INDUSTRIES AND ORS., ETC.

FEBRUARY 23, 1996

[KULDIP SINGH AND G.B. PATTANAİK, JJ.]

Bombay Electricity Duty Act, 1958: Schedule—Part A and Part B—1981 Tariff: Guest house in city maintained by Company—Whether meant for exclusive use as private residential premises—Whether tariff Category 'R' applicable. Held, no.

Statutory construction: Expression "exclusively used as private residential premises"—Meaning of—Category 'R' 1981 Tariff—Schedule Part A, Bombay Electricity Duty Act, 1958.

Section 3(1) of the Bombay Electricity Duty Act, 1958 provided for levy of electricity duty on the units of energy consumed at the rates specified in the Schedule to the Act. In the Schedule, Part A provided the tariff for premises used for residential purposes and Part B provided the tariff for premises used for business, trade, commercial undertaking or professional purposes. Category 'R' of the 1981 tariff applied to premises exclusively used as a private residential premises, and Category 'C' applied, as a residuary category, to premises which did not come within categories R, S, RC(LV) and SL.

The respondent company had been maintaining guest houses in Bombay City for occupation of its employees. The said premises having been treated as Category 'C' in the bill raised under the 1981 tariff, the company filed writ petition in the High Court seeking a direction to treat the said guest houses as falling under Category 'R'.

The Single Judge took the view that Category 'R' was restricted to premises used as private residence by a family for permanent or longer occupation and would not apply to flats provided for transitory periods to outstation officers. The Division Bench, however, in the appeals, construed that the word 'private' in the expression "exclusively used as a private residential premises" must be read as opposed to 'public', and came to the conclusion that since the company was using the premises as guest house

without any intention to make profit and it was not the business of the company to run a guest house, it must be held that the premises was exclusively used for its own purpose and accordingly tariff rate meant for Category 'R' should apply.

Allowing the appeals, the Court

HELD: 1. The Division Bench of the High Court committed serious error in applying the test of profit making as well as the test of use of the word 'private' in contradistinction to 'public' for interpreting the expression "exclusively used as a private residential premises". [1020-C]

2. It is a cardinal principle of construction of a statute that the words must be given their natural meaning and must be understood in their ordinary or popular sense and each word must have its play. Natural and ordinary meaning of the words should not be departed from unless it is shown that the context in which the words are used requires a different meaning. [1019-D-E]

3. In the instant case, on a plain literal meaning being given to each of the words in the expression "exclusively used as a private residential premises", it cannot be said that the guest house maintained by a company or commercial undertaking would come within that expression. The said expression connotes that the premises in question must be exclusively used as a residential premises, which, in other words, would mean the premises which is used by any person privately for his own residence for a sufficiently continued period and not a premise where a person can come and spend a day or a night and then go back. The guest houses maintained by company or commercial undertaking, on the other hand, are part of its commercial venture, and, as such, cannot be held to be meant for exclusive use as private residential premises. The word 'exclusively', occurring in the aforesaid expression, also must be given a rational meaning. [1020-C-D]

Viewed from that angle, the context in which the expression "exclusively used as a private residential premises" has been used for determining the 1981 tariff under the Bombay Electricity Duty Act, 1958, it can only apply when any premises is used as a private residential premises.

[1020-A-C]

4. Since the guest house maintained by a company or commercial undertaking in the cities cannot be held a premise which is exclusively used

as private residential premise, Category 'R' of the 1981 tariff, in the instant case, cannot be held to be applicable. [1020-E]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 11142 of 1995.

From the Judgment and Order dated 5/8.2.93 of the Bombay High Court in A.No.1159/90 Arising from W.P. No. 539 of 1981.

With

Civil Appeal No. 11143 of 1995.

From the Judgment and Order dated 5/8.2.93 of the Bombay High Court in A.No.1234/90 arising from W.P. No. 1606 of 1983.

V.R. Reddy, Additional Solicitor General, P.H. Parekh, Amit Dhingra and S.A. Gadkar for the Appellants.

Bhimrao N. Naik and Amit Damle and Bharat Sangal for the Respondents.

The Judgment of the Court was delivered by

G.B. PATTANAIK, J. These appeals by special leave are directed against the judgment of the division bench of Bombay High Court dated 8.2.1993 arising out of writ petition nos. 539 of 1981 and 1606 of 1983 respectively.

The facts are not in dispute namely the respondents' industries had got their guest houses in Bombay and the Municipal Corporation of Bombay treating the premises falling under Category 'C' under the Bombay Electricity Duty Act raised a bill for payment of electricity duty. The respondents being aggrieved by the said billing filed writ petition in the Bombay High Court contending *inter alia* that premises having been used as guest houses for the occupation of the employees of the company, the same could not have been categorised as Category 'C' and the order of the Municipal Corporation is invalid and inoperative. The appellant - Municipal Corporation in its return filed before the learned Single Judge took the stand that the tariff under Category 'R' is exclusively meant for premises used as 'private residential premises' and tariff under Category

'C' is meant for all non industrial premises and a guest house maintained by a commercial undertaking even for occupation of its employees cannot come within Category 'R' and therefore rightly they have been charged in accordance with the tariff meant for Category 'C'. The learned Single Judge on consideration of the relevant provisions of the tariff came to the conclusion that Category 'R' is restricted to premises used as private residence and by a fixed category for example a family whose occupation is permanent or at least of a duration dependent on factors such as length of service or posting at a place etc. and it will not apply to cases where flats are provided for transitory periods for out-station officers and directors. The learned Single Judge accordingly held that the placing of the premises under Category 'C' is fully justified and the writ petitions were dismissed. The respondents being aggrieved by the aforesaid judgment of the learned Single Judge preferred appeals to the Division Bench. The Division Bench by the impugned Judgment came to the conclusion that since the company is using the premises as guest house without any intention to make profit and it is not the business of the company to run a guest house, it must be held that the premises is exclusively used for its own purpose and accordingly tariff rate meant for Category 'R' should apply. The Division Bench construed that the word "private" in the expression "exclusively used as a private residential premise" must be read as opposed to "public". It further came to hold that since guest house maintained by the company is not a business proposition it cannot be held to be for commercial purpose and unless the premises is used for any commercial purposes then the same cannot be categorised as Category 'C'. With this conclusion the judgment of the learned Single Judge has been reversed and the appeals having been allowed, the present appeals by special leave have been filed in this Court.

Mr. Reddy, learned Additional Solicitor General appearing for the appellant contended that the Division Bench of the Bombay High court totally misconstrued the expression "exclusively used as a private residential premise" and the said expression has no co-relation with either the object of profit making or it is to be read in contradistinction to the word 'public'. According to Mr. Reddy, the expression "exclusively used as a private residential premise" must be given its natural grammatical construction and if such a construction being given it would apply to those premises which are used for residential purpose and will certainly not apply to guest house maintained by a company or a commercial undertaking where its

employees come and reside for some time when they are in Bombay. Mr. Naik, learned senior counsel appearing for the respondents on the other hand contended that when under the Bombay Electricity Duty Act two different tariffs have been provided for, one for the premises used for residential purpose and the other for premises used for business, trade, commercial undertaking or professional purpose the guest house belonging to the commercial undertaking must come within the first category and therefore the Division Bench was wholly justified in directing the payment of tariff for such guest houses bringing them under Category 'R'. According to learned counsel guest houses are maintained by commercial undertakings to be used by its employees when they come to the cities and therefore the purpose of maintenance of such guest houses is undoubtedly residential and consequently the categorisation must be Category 'R'.

In view of the rival submissions at the bar the question that arises for consideration is, what is the true meaning of the expression "exclusively used as a private residential premises"? A premise to come within Category 'R' Part A to the Schedule of Electricity Tariff must be a premise which is exclusively used as a private residential premise. It is a cardinal principle of Construction of a Statute that the words must be given their natural meaning and must be understood in their ordinary or popular sense and each word must have its play. Natural and ordinary meaning of the words should not be departed from unless it is shown that the context in which the words are used requires a different meaning. Under the Bombay Electricity Duty Act, 1958 (hereinafter referred to as 'the Act'), under Section 3(1), Electricity Duty shall be levied and paid on the units of energy consumed at the rates specified in the Schedule to the Act. In the Schedule-Part A provided the tariff for premises used for residential purposes and Part B provided the tariff for premises used for business, trade, commercial undertaking or professional purposes. The said Schedule of electricity tariff has been changed from time to time and in the case in hand we are concerned with the tariff which was effective from 20th March, 1981. Under the aforesaid 1981 tariff, Category 'R' would apply to premises exclusively used as a private residential premises and Category 'C' would apply, as a residuary category to premises which does not come within categories R, S, RC (LV) and SL. This being the position the question for consideration is whether the guest house maintained by the company for the use of its employees when they come to the city can be held to be a premise "exclusively used as a private residential premise"

so as to come within the Category 'R'? On a plain literal meaning being given to each of the word in the expression "exclusively used as a private residential premises" it is difficult for us to hold that the guest house maintained by a company or commercial undertaking would come within the aforesaid expression. The aforesaid expression connotes that the premises in question must be exclusively used as a residential premises which in other words would mean where the premise which is used by any person privately for its own residence for a sufficiently continued period and not a premise where a person can come and spend a day or a night and then go back. The guest houses are maintained by company or commercial undertaking on the other hand is a part of its commercial venture and such premises by no stretch of imagination can be held to be meant for exclusive use as private residential premises. The Division Bench of Bombay High Court in our considered opinion committed serious error in applying the test of profit making as well as the test of use of the word 'private' in contradistinction to 'public', which in our opinion have no relevance for interpreting the expression "exclusively used as a private residential premises". The context in which the aforesaid expression has been used for determining tariff under the Act, it can only apply when any premises is used as a private residential premises. The word 'exclusively' also must be given a rational meaning and viewed from that angle, we are of the considered opinion that the guest house maintained by a company or commercial undertaking in the cities can't be held a premise which is exclusively used as private residential premise. Therefore, Category 'R' of the tariff cannot be held to be applicable. The appeals are accordingly allowed. The judgment of the Division Bench of Bombay High Court is set aside, the writ petitions filed by the respondents stand dismissed. There will be no order as to costs.

Appeals allowed.