

A

SH. MOHAMMAD ALI KHAN AND ORS.

v.

THE COMMISSIONER OF WEALTH TAX, NEW DELHI

MARCH 4, 1997

B

[S.C. AGRAWAL AND G.B. PATTANAIK, JJ.]

C

*Wealth Tax Act, 1957—Section 5(1)(iii)—Net Wealth—Palace declared as official residence of Ruler, by Central Government under Merged States (Taxation Concessions) Order, 1949—Part of the Palace let out on rent—Exemption claimed in respect of whole Palace—Held, assessee would be entitled to exemption only in respect of portion actually occupied by him.*

*Interpretation of Statutes—Taxing Statutes—Strict letter of law to be followed.*

D

*Words and Phrases—"Anyone building"—Meaning of in the context of Wealth Tax Act, 1957—Section 5(1)(iii).*

E

Khas Bagh palace owned by the appellant-assessee was declared as his official residence by the Central Government under paragraph 13 of the Merged States (Taxation Concessions) Order 1949. The assessee during the assessment year 1961-62 claimed exemption of the aforesaid Palace in computation of wealth under Section 5(1)(iii) of the Wealth Tax Act, 1957. The Wealth Tax Officer concluded that as the Palace consisted of many buildings, an exemption could be granted in respect of the portion in occupation of the Ruler.

F

The assessee appealed to the Assistant Commissioner. Unable to succeed, he also made a second appeal before the Tribunal. The Tribunal confirmed the order. On an application the Tribunal referred to the High Court, the question, as to whether on the facts and circumstances of the case the Tribunal was justified in holding that the buildings of the Khas Bagh Palace, let out on rent by the assessee, were not in his occupation within the meaning of Section 5(1)(iii) of the Wealth Tax Act, 1957.

G

H

The High Court came to the conclusion that a restrictive interpretation would disentitle the assessee as all buildings of the said Palace were not in the occupation of the Ruler, and a liberal interpretation would only

entitle him to the extent of the occupied portions; therefore a liberal interpretation should be preferred. The High Court answered the question in favour of the Revenue. A

In appeal to this Court it was contended on behalf of the assessee that the expression "anyone building" in Section 5(1)(iii) of the Act is not to be interpreted by making a further dissection to import into it the portion of the building or whole of the building and that while interpreting the taxing statute it is not permissible for the court to look to the policy behind the statute, but instead give a plain meaning to the words. B

Dismissing the appeal, the Court C

HELD : 1.1. The intention of the legislature is primarily to be gathered from the language used, which means attention should be paid to what has been said as also to what has not been said. [663-B]

1.2. It is a cardinal principle of construction that the words of a statute are first understood in their natural, ordinary or popular sense and phrases and sentences are construed according to their grammatical meaning unless that leads to some absurdity or unless there is something in the context or in the object of the statute to suggest the contrary. [663-B] D

1.3. A construction which requires for its support addition or substitution of words or which results in rejection of words as meaningless has to be avoided. Similarly it is of universal application that effort should be made to give meaning to each and every word used by the legislature. [663-C] E

*J.K. Cotton Weaving and Spinning Company Ltd. v. The State of U.P.*, [1961] 3 SCR 185, relied on. F

2.1. In a taxing statute, regard must be given to the strict letter of the law and if the Revenue satisfies the Court that the case falls strictly in the provisions of law, the subject can be taxed. [663-F]

2.2. A reading of Section 5(1)(iii) of the Wealth Tax Act Would reveal that only the building or the part of the building in occupation of the Ruler, declared as the official residence by the Central Government will not be included in the net wealth of the assessee. [663-F] G

2.3. The expression, "in the occupation of the Ruler" would become H

A redundant and those words in the provision would not have its play when a substantial portion of the building declared as the official residence is given on rent, even if a portion of the said building is in occupation of the assessee. The said building cannot come under the purview of Section 5(1)(iii) of the Act. [663-G-H]

B 3. The High Court rightly answered the question in favour of Revenue and against the assessee and it does not require any interference by this Court. [664-B]

C *Jupudi Kesava Rao v. Pulavarathi Venkata Subba Rao and Others*, [1971] 1 SCC 545 and *M/s. Baidyanath Ayurved Bhawan (Pvt.) Ltd. v. The Excise Commissioner, U.P. and Others*, [1971] 1 SCC 4, relied on.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5352 (NT) of 1983.

D From the Judgment and Order dated 16.11.82 of the Delhi High Court in W.T.R. No. 5 of 1974.

B.D. Sharma and Ranbir Yadav for the Appellants.

E Dr. V. Gaurishankar, S. Rajappa and C. Radha Krishana for the Respondent.

The Judgment of the Court was delivered by

F **PATTANAİK, J.** In this appeal by grant of certificate by Delhi High Court interpretation of Section 5(1)(iii) of the Wealth Tax Act, 1957 (hereinafter referred to as 'The Act') is involved. On an application being filed under Section 27(1) of the Act the Tribunal referred the following question to the High Court for being answered :

G "Whether on the facts and in the circumstances of the case the Tribunal was justified in holding that the buildings of the Khas Bagh Palace which were let out to different persons from whom a rental income was received by the assessee were not in the occupation of the assessee within the meaning of Section 5(1)(iii) of the Wealth Tax Act 1957 and hence the value thereof was includible  
H in the net wealth of the assessee?"

The assessee Late H.H. Nawab Sir Syed Raza Ali Khan, Newab of Rampur is the owner of Khan Bagh Palace. The said Palace was declared by the Central Government in exercise of power under paragraph 13 of the Merged States (Taxation Concessions) Order 1949, to be the official residence of the Ruler. During the assessment year 1961-62 the assessee claimed exemption of the aforesaid Palace in computation of the wealth under the Wealth Tax Act under Section 5(1)(iii) of the Act. The Wealth Tax officer on consideration of the materials before him came to the conclusion that the Palace having consisted of number of buildings the assessee would be entitled to exemption only in respect of the building or the portions of the building which is in the occupation of the Ruler and on the said conclusion he found that the estimated market value of several buildings which had been let out to be Rs. 3,55,000. This valuation obviously he found out on the basis of the rental income derived by the assessee. He accordingly took that into consideration in computation and levying wealth tax on the same. Being aggrieved by the order of the Officer the assessee moved an appeal and the Asstt. Commissioner in appeal as well as the Tribunal in Second Appeal confirmed the assessment made. But on an application being filed under Section 27 of the Act the Tribunal made the reference on the question, as already stated. The High Court in the impugned decision came to the conclusion that a restrictive interpretation of Section 5(1) of the Act would disentitle the assessee of any exemption since the building in question is not under the occupation of the Ruler fully. It also came to the conclusion that liberal interpretation of the said provision would entitle the assessee to exemption to the extent the assessee occupies the building or the portion of the building and, therefore, the liberal interpretation should be preferred. With this finding the High Court answered the question referred to in favour of the revenue and against the assessee.

Mr. Sharma, the learned counsel appearing for the appellant contended that the expression "anyone building" in Section 5(1)(iii) is not susceptible of an interpretation by making a further dissection to import into it the portion of the building or whole of the building as that would tantamount to a fresh legislation which the Court is not empowered to do. According to the learned counsel the Central Government having declared the Ram Bagh Palace to be the official residence of the assessee in exercise of power under paragraph 13 of the Merged States (Taxation Concessions)

- A Order 1949, the said building would be excluded from the purview of the Act by virtue of Section 5(1)(iii) of the Act. This being the position, the High Court committed an error in answering the question posed in favour of the Revenue. The learned counsel urged that in interpreting the taxing statute it is not permissible for the Court to look to the policy behind the
- B statute and the court would be entitled to give a plain meaning to the words used in the Statute. In support of this contention reliance was placed on the decisions of this Court in *Jupudi Kesava Rao v. Pulavarathi Venkata Subbarao and Others*, (1971) 1 Supreme Court Cases 545 and *M/s. Baidyanath Ayurved Bhawan (Pvt.) Ltd. v. The Excise Commissioner, U.P. & Ors.*, [1971] 1 Supreme Court Cases 4. It is, therefore, urged that a plain
- C literal meaning being given to each part of Section 5(1)(iii), the said provision is susceptible of only one construction, namely, that building which has been declared by the Central Government to be the official residence of the Ruler cannot be included in the assets of the assessee for the purpose of determining the wealth tax payable by an assessee.

D

Dr. Gauri Shankar, the learned senior counsel appearing for the Revenue, on the other hand, contended that in interpreting Section 5(1)(iii) of the Act the expression "in the occupation of a Ruler" has to be borne in mind and if each and every word used in Section 5(1)(iii) of the Act is given its literal grammatical meaning then the only conclusion possible is

E the building or the part of the building in occupation of the Ruler and which has been declared by the Central Government as the official residence of the Ruler would be exempted under the said provision.

- F In order to appreciate the rival contention it would be appropriate to notice Section 5(1)(iii) of the Act :

"5(1) Wealth Tax shall not be payable by an assessee in respect of the following assets shall not be included in the net wealth of the assessee.

- G (i) .....
- (ii) .....

- (iii) any one building in the occupation of a Ruler declared by the Central Government, as his official residence under Paragraph
- H 13 of the merged States (Taxation Concessions) Order 1949, or

paragraph 15 of the Part B States (Taxation Concessions) Order 1950". A

It is a cardinal principle of construction that the words of a statute are first understood in their natural, ordinary or popular sense and phrases and sentences are construed according to their grammatical meaning unless that leads to some absurdity or unless there is something in the context or in the object of the statute to suggest the contrary. It has been often held that the intention of the legislature is primarily to be gathered from the language used, which means that attention should be paid to what has been said as also to what has not been said. As a consequence a construction which requires for its support addition or substitution of words or which results in rejection of words as meaningless has to be avoided. Obviously the aforesaid rules of construction are subject to exceptions. Just as it is not permissible to add words or to fill in a gap or lacuna, similarly it is of universal application that effort should be made to give meaning to each and every word by the legislature. In *J.K. Cotton Weaving and Spinning Company Ltd. v. State of U.P.*, [1961] 3 S.C.R. 185 it was observed by this Court : B C D

"The Courts always presume that the legislature inserted every part thereof for a purpose and the legislative intention is that every part of statute should have effect." E

In case of taxing statute it has been held by this Court in several cases that one must have regard to the strict letter of the law and if the revenue satisfies the Court that the case falls strictly in the provisions of law, the subject can be taxed. This being the position, a fair reading of Section 5(1)(iii) of the Act would reveal that only the building or the part of the building in occupation of the Ruler which has been declared by the Central Government to be the official residence under the merged States (Taxation Concessions) Order 1949, will not be included in the net wealth of the assessee. The contention advanced by the learned counsel for the appellant that once a building has been declared as the official residence and a portion of the said building is under occupation of the assessee then the said building should come under the purview of Section 5(1)(iii) of the Act even if the substantial portion of the same has been rented out by the assessee to the tenant or for any other purpose would make the expression "in the occupation of a Ruler" redundant and those words in the provision F G H

A would not have its play.

B We have carefully considered the principles of construction of statute enunciated by this Court in the decisions cited by the learned counsel for the appellant and we do not find any principle stated therein, which is contrary to the principle we have adopted in this Case in interpreting Section 5(1)(iii) of the Act. In the aforesaid premises. We are of the considered opinion that the High Court rightly answered the question posed in favour of Revenue and against the assessee and the said judgment of the High Court does not require any interference by this Court.

C This appeal is accordingly dismissed. But in the circumstances, there will be no order as to costs.

A.Q.

Appeal dismissed.