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Whether only operative part
of the judgment is pronounced
or whether full judgment is
pronounced : FULL.

[3584]

APHC010275932024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI

WRIT APPEAL NO: 577 of 2024

G.V.M. Krishna Arya and others ...Appellant(s)

Vs.

Vijayawada Municipal Corporation, rep. by its Commissioner ...Respondent

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CORAM : THE CHIEF JUSTICE LISA GILL
SRI JUSTICE CHALLA GUNARANJAN

DATE : 13th October 2026

Present:

Advocate for Appellants: MR. P RAJESH BABU

Advocate for Respondent: MR. S.V.S.S.SIVARAM, SC For VMC

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JUDGMENT: (per Hon'ble Sri Justice Challa Gunaranjan)

This intra-Court appeal, under Clause 15 of Letters Patent, is directed against the order, dated 16.04.2024, passed in W.P.No.14571 of 2002, whereby learned Single Judge dismissed the writ petition.

2. Appellants/writ petitioners preferred subject writ petition assailing demand notice, dated 10.07.2002, vide Bill No.256 for Assessment No.19899, issued by respondent-Corporation, purported to be in the nature of distraint notice, seeking to claim tax arrears for the period from 01.10.1991 to 01.04.2002, as illegal, arbitrary, barred by limitation, and opposed to law laid down in **V.K. Roy v. Commissioner, Municipal Corporation of Hyderabad**[1] and consequently to restrain them from collecting the said tax.

3. 1st appellant owned property bearing Door No. 27-14-38 in Ward No.23 of Rajagopalachari Street, Vijayawada, and the said property was assessed by respondent Corporation under the provisions of the Hyderabad Municipal Corporation Act, 1955 (for short, "the Act"). Respondent-Corporation issued impugned demand notice, dated 10.07.2002, raising a demand of ₹1,48,567.25ps., payable within 15 days, purported to be tax dues for the period from 01.10.1991 to 01.04.2002. In the demand notice, it was also directed that in case the tax arrears are not paid, articles belonging to 1st appellant would be auctioned and essential services would be disconnected, thus, aggrieved, writ petition was preferred.

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[1] 2002 (4) ALD 711 (DB)

4. Respondent Corporation filed counter-affidavit, *inter alia,* stating that impugned demand was not in the nature of distraint notice, rather, it was a simpliciter tax demand issued under Section 266(1) of the Act. It is also stated that when there was enhancement of tax from ₹1,193.25ps. to ₹7,010.50ps. with effect from 01.04.1986, the same was challenged by 1st appellant by filing a revision, thereby the rate of tax was reduced to ₹5,747.32ps. Further, 1st appellant preferred C.M.A. No.373 of 1987 before the Subordinate Judge, Vijayawada, challenging the revisional order, and the same was partly allowed by order, dated 02.12.1991, further reducing the tax with effect from 01.04.1987. Dissatisfied with the same, the first appellant further preferred C.M.S.A. No.17 of 1993 before this Court, however, the same was dismissed by order, dated 13.02.2002, confirming the order of the Subordinate Judge, Vijayawada, thus, the tax came to be fixed as ₹4,473/- on a half-yearly basis. Only thereafter, respondent Corporation issued impugned demand notice under Section 266(1) of the Act on 10.07.2002, claiming tax amount for the period from 01.04.1989 to 01.04.2003. It is also stated that the demand was a simpliciter notice claiming tax amounts and not a distraint order; thus, question of limitation does not arise.

5. The learned Single Judge, having considered the submissions advanced by the parties, held that the impugned demand was a mere notice under Section 266(1) of the Act, thus, the ratio laid down in **V.K.**

Roy[1] would have no application, and accordingly upheld the demand by dismissing the writ petition. Hence, the present appeal.

6. Heard Mr.P.Rajesh Babu, learned counsel for appellants and Mr.S.V.S.S. Sivaram, learned Standing Counsel for VMC, appearing for respondent-Corporation.

7. Learned counsel for the appellants vehemently contended that learned Single Judge erred in dismissing writ petition on the misconception that the ratio laid down in **V.K. Roy**[1] would not be applicable to the case on hand. That when impugned demand notice ex-facie directed the appellants to pay tax for the period from 01.04.1989 to 01.04.2002, which is for a period beyond three years from due date, the law of limitation would kick in, and thus, the ratio laid down in **V.K. Roy**[1] squarely applies, wherein it is held that the Corporation was entitled to recover arrears of property tax by way of distraint after expiry of three years from the date when the tax becomes due, and if Corporation so chooses to recover such tax, the only recourse would be by resorting to Section 278 of the Act by filing appropriate civil Suit. Thus, the appellants prayed for allowing writ appeal.

8. Conversely, the learned Standing Counsel for respondent Corporation, while supporting the impugned order, submitted that judgment sought to be relied on by appellants would have no application

to the facts of present case, inasmuch as, in the case on hand, the demand notice under challenge was issued for first time under Section 266(1) of the Act after the challenge to revision of tax was ultimately settled before this Court at the instance of 1st appellant, therefore, limitation would apply only once there is a default and that too after a period of three years thereafter. It is also stated that appellants so far have merely paid one-fourth of demand notice in terms of the interim order passed in the writ petition, and neither the balance amount was paid nor appellants have been paying taxes for the period after 01.04.2002 till date, thus, urged dismissal of appeal.

9. We have gone through the record and given our anxious consideration to the submissions made above.

10. The Impugned demand notice on record makes it clear that the same was issued under Section 266(1) of the Act. By said demand notice, tax for ₹1,48,567.25ps. was demanded for the period from 01.04.1989 to 01.04.2002 on half-yearly basis. The record further discloses that enhancement from ₹1,193.25ps. to ₹7,010.50ps. on half-yearly basis as of 01.04.1986 was challenged by 1st appellant in revision, which was allowed by reducing the tax to ₹5,747.32ps., and thereafter, in appeal, it was further reduced by order, dated 02.12.1991. The same was confirmed in C.M.S.A. No.17 of 1993 by order, dated

13.02.2002. Thus, the revision of tax attained finality at the rate of ₹4,473/- on half-yearly basis. The demand notice thereafter was issued on 10.07.2002.

11. The sequence of events narrated above indicates that enhancement of tax was under challenge and the same was ultimately settled by order dated 13.02.2002. Thereafter, for the first time, demand notice was issued on 10.07.2002 calling upon the assessee to pay tax within 15 days.

12. Section 266(1) of the Act, under which the demand has been raised, reads as under:

> "**266**. (1) When any property tax or tax on vehicles and animals or any instalment of any such tax, shall have become due, the Commissioner shall with the least practicable delay, cause to be served upon the person liable for the payment thereof a bill for the sum due."

13. The scheme of the Act contemplates that in case the demand as initially raised is not paid, the further course of action has been provided under Sections 268, 269, and 278 of the Act. Sections 268, 269, and 270 will come to aid only if in case the demand issued under Section 266(1) is not honoured or paid by the assessee.

14. In **V.K. Roy**[1], a Co-ordinate Bench of the composite High Court was examining whether issuance of demand notice seeking to recover

arrears of property tax for more than three years preceding the date of demand notice was in consonance with the scheme of the Act. There were three categories of cases examined: in first case, challenge was to demand notice calling upon petitioner therein to pay property tax for the period from 01.04.1981 to 31.03.1993; in second case, the demand notice seeking to recover property tax from 1979 to 1995 was challenged; and the third was concerned with recovery of arrears for the period from 01.04.1982 to 30.09.1992. In all these three cases, there was an initial demand and thereafter arrears of tax were sought to be recovered by invoking Sections 268, 269, and 273 of the Act. In those circumstances, it was held that recovery beyond three years period was impermissible without taking recourse to provisions under Section 278 of the Act.

15. Whereas in the present case, the demand was raised for first time on 10.07.2002 for the anterior period on account of pendency of challenge to tax revision. Therefore, the facts and circumstances under which the judgment in **V.K. Roy**[1] came to be decided are completely different from the case on hand.

16. Learned Single Judge rightly held that the demand notice traceable to Section 266(1) of the Act is legally valid and sustainable

and dismissed the writ petition. The view expressed by learned Single Judge does not call for any interference.

17. The appellants have enjoyed the benefit of interim order in the writ petition for a substantial period, and even after dismissal of the same, we are informed that the tax arrears are not paid so far. That apart, the appellants have also not paid taxes for subsequent period on account of pendency of writ petition. Therefore, respondent Corporation is at liberty to take appropriate steps for recovering the tax dues along with interest and penalty, if any, in accordance with the provisions of the Act.

18. Therefore, writ appeal is devoid of any merit, and accordingly, the same stands dismissed. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

LISA GILL, CJ **CHALLA GUNARANJAN, J**

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