

A

BHAGWANT RAI AND ORS.

v.

STATE OF PUNJAB AND ORS.

AUGUST 17, 1995

B

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

*The Punjab Municipal Act, 1911*

C

*Ss.3(1)(b), 61—House Tax—Assessment—Annual Value—Basis of—Held; should be reasonable standard rent and not actual rent received—Admission wrongly made by landlord, not a ground to deny statutory benefit.*

D

The respondents, for the assessment year 1987-88, assessed the rateable value of appellants' house at Rs. 1,50,472.50 on the basis of the rent received in respect thereof, after giving standard deductions under s.3(1)(b) of the Punjab Municipal Act, 1911.

E

In the appeal before this Court, it was contended by the respondents that in view of the admission of the appellants that they were prepared to pay the tax on the basis of the actual rent received from the tenant, the respondents had rightly made the rent as a measure of assessing the rateable value.

F

On the question : whether the actual rent received by the landlord from the tenant would be the measure for determining annual value.

Allowing the appeal, this Court

HELD : 1. The actual rent received from a tenant is not the measure for determination of the annual rateable value, but the reasonable standard rent expected to be received under the relevant Rent Act. [802-D]

G

*Diwan Daulat Rai Kapur v. New Delhi Municipal Committee*, [1980] 2 SCR 607; *Mrs. Shiela Kaushish v. C.I.T.*, [1981] 4 SCC 121; *New Delhi Municipal Committee v. M.N. Soi and Anr.*, [1976] 4 SCC 535 and *Balbir Singh v. M/s. M.C.D.*, AIR (1985) SC 339- relied on.

H

2. There is no estoppel against the statute. When the statute prescribes particular mode to determine the annual rental value, it has to





owner. Therefore, in either case according to the definition of "annual value" given in both statutes, the standard rent determinable under the provisions of the Rent Act and not the actual rent received by the landlord from the tenant would constitute the correct measure of the annual value of the building. The Court pointed out that in each case the assessing authority would have to arrive at its own figure of the standard rent by applying the principles laid down in the Rent Act for determination of the standard rent and determine the annual value of the building on the basis of such figure of the standard rent. The Court, on this view, negated the attempt of the municipal authorities each of the cases to determine the annual value of the building on the basis of the actual received by the landlord and observed that the annual value of the building must be held to be limited by the measure of the standard rent determinable on the principles laid down in the Rent Act and it could not exceed such measure of the standard rent."

When similar contention was raised that the actual rent received will form the basis to determine annual value of the building, another bench of this Court in *New Delhi Municipal Committee v. M.N. Soi and Anr.*, [1976] 4 SCC 535 held thus as stated in the Headnote :

"It is not the actual rent received by the landlord but the "hypothetical rent which can reasonably be expected if the building is to be let", which has to be the legal yardstick of a "reasonable expectation" in an "open market". The municipal authorities cannot take advantage of the defiance of the law by the landlord. Rating cannot operate as a mode of sharing the benefits of illegal rackrenting indulged in by rapacious landlords for whose activities the law prescribes condign punishment. The prudence of the landlord has to be assumed and judged by normal standard to determine his "reasonable expectation".

Hence rating is to be governed by the fixation of rent by rent control authorities and not by the test of actual income derived by the landlord.

The concept of reasonableness of expectation of rent must take the penal law of the State into account. It is not the expectation

A of a landlord who taken the risk of prosecution and punishment which the violation of the law involves, but the expectation of the landlord who is prudent enough to abide by the law that serves as the standard of reasonableness for purpose of rating."

B This question was further examined by a bench of three Judges in *Balbir Singh v. M/s. M.C.D.*, AIR (1985) SC 339. The Court said that "The ratable value of a building, whether tenanted or self occupied, is limited by the measure of standard rent arrived at by the assessing authority by applying the principles laid down in the Rent Act and cannot exceed the figure of the standard rent so arrived at by the assessing authority. The standard rent determinable on the principles set out in the Rent Act is the upper limit of the rent which the landlord may expect to received from a hypothetical tenant, but it may in a given case be less than the standard rent having regard to various attendant circumstances and consideration."

D Thus, it is settled law that the actual rent received from a tenant is not the measure for determination of the annual ratable value, but the reasonable standard rent expected to be received under the relevant Rent Act. The view taken by the authorities is, therefore, clearly illegal.

E It is contended by the respondent that in view of the admission by the appellants in their letter that they are prepared to pay the tax on the basis of the actual rent received from the Bank, they are estopped to go back from the admission and the respondents are right to adopt that as a measure of assessing ratable value. We fail to appreciate the contention as there is no estoppel against the statute. When the statute prescribes particular mode to determine the annual rental value, it has to be done in that manner. Admission wrongly made by the landlord or the owner would not be a ground to deny the statutory benefit.

G The appeal is accordingly allowed. The order of the assessing authority and the appellate authority are set aside and they are directed to determine the annual value, to determine the amount of tax, as indicated hereinabove. No costs.

R.P.

Appeal allowed.