

PETITIONER:
NEW DELHI MUNICIPAL COMMITTEE

Vs.

RESPONDENT:
LIFE INSURANCE CORPORATION OF INDIA

DATE OF JUDGMENT 09/08/1977

BENCH:
CHANDRACHUD, Y.V.
BENCH:
CHANDRACHUD, Y.V.
KAILASAM, P.S.

CITATION:
1977 AIR 2134 1978 SCR (1) 279
1977 SCC (4) 84

ACT:
Punjab Municipal Act, 1911-Ss. 66, 67 and 68A scope of-
Certain property escaped assessment for five years-Power of
Municipal Committee to revise assessment-If exists--'At any
time' meaning of.

HEADNOTE:

Section 66 of the Punjab Municipal Act, 1911 (which is the Act in force in the New Delhi Municipal Area) prescribing the procedure for revision of the valuation and assessment of property provides that "subject to such amendments as may thereafter be duly made the tax so assessed shall be deemed to be the tax for the year commencing on the first day of January or first day of April next ensuing as the Committee may determine." Section 67(1) provides that the Committee may 'at any time' amend the list by altering the assessment on any property which has been erroneously valued or assessed through fraud, accident or mistake whether on the part of the Committee or of the assessee, after following the procedure prescribed therein. Section 68A which deals with power to amend an assessment list in certain cases provides that where the prescribed authority is satisfied that any property has been erroneously valued or assessed through fraud, accident or mistake, whether on the part of the committee or of the assessee, it may pass an order amending the assessment already made and fixing the amount of tax payable for that property and on the issue of such an order the assessment list then in force shall be deemed to have been amended accordingly with effect from first day of January or first day, of April or first day of July or first day of October next following the month in which the order is passed.

In January, 1968 the appellant Municipal Committee issued a notice to the respondent stating that it had decided to amend the lists of assessment for five years (1963-64, 1964-65, 1965-66, 1966-67, 1967-68) on the ground that the rent of a portion of the basement of the building had escaped inclusion in the respective lists.

The respondent's writ petition was allowed by the High Court holding that the assessment lists together with the amendments, if any, could only operate prospectively in and for the financial year next following and not for any

previous year.

Allowing the appeal,

HELD : The Full Bench of the High Court was wrong in its conclusion that the expression 'at any time' in s. 67 has reference only to the point of time when the list could be amended. [286H]

1(a) That the amended list operates prospectively is correct because the amendment is made to the original list and that list has prospective operation. Each assessment list is effective for the ensuing year, so that the list settled before 31st of March operates for the year commencing with the ensuing 1st of April and ending with the 31st of March following. But the list in force for such an ensuing year can under s. 67 be amended at any time with the result that when a list which was finalised say on March 25, 1970 is amended in August 1973, the amendment becomes effective for the year for which the list itself was effective, that is to say, for the year April 1, 1970 to March 31, 1971. The words "next ensuing" which occur in s. 66 cannot be correlated to the date of the amendment so as to mean "the year next ensuing after the year in which the amendment is made". This reasoning overlooks the true purpose and purport of the Committee's power to amend a list at any time and robs that power of its meaningful content. [286E-G]

(b)'The Committee's power to amend an assessment-list is not limited by the consideration that the list has already become final by authentication. It

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has the power to amend a list even after it is finalised and has already come into force. That is the important effect and implication of the expression 'at any time.' [284A-B]

(c)It may be true to say that the power ought to be exercised within a reasonable time since the use of expression of a wide amplitude like 'at any time' does not exclude the concept of reasonableness. Subject to that consideration, the power of amendment can be exercised even after the expiry of the year for which the list is to remain in force. [284D]

2(a) The reason why the Legislature, by s. 67, has conferred on the Municipal Committee the power to amend an assessment list at any time is that the omission, by reason of which a property has escaped assessment, may be discovered a long time after the list had ceased to be operative. The larger interest of the general public requires in such cases that the Municipal Committee must have the power to do what ought to have been done but which, for some reason or the other, had remained to be done. (284-G]

In the instant case, a part of the basement was alleged to have escaped assessment and if that be true, the assessee could not in face of s. 67, raise a contention that the assessment lists of past years, though faulty, could not be corrected.

(b)The expression 'at any time' must be given its full force and effect which requires the recognition of. the Committee's power to amend the assessment list even after the expiry of the year following the one in which the list was finalised by due authentication. [285B]

3.Sections 66 and 67 have to be read as two integral parts of a scheme which the legislature has prescribed for preparation, assessment and amendment of assessment lists. The scheme contemplated by s. 66 is subject to an important condition mentioned in the section itself, namely, that the tax assessed under an authenticated list becomes the tax for the particular period, "subject to such amendments as may thereafter be duly made." The word "thereafter" means "after

the list is finalised on the completion of revision of valuation and assessment", and "duly made" evidently refers to the exercise of the amending power under s. 67. Thus, the two sections, read together, yield the result that tile list can be amended at any time after its finalisation, subject to the prescription of reasonableness. [285D-E]

Therefore, if the Committee discovered, say in July 1970, that a property had escaped assessment since April 1, 1967 it possesses, under s. 67, the power to make an appropriate amendment. If everyone of the lists which was in force during the relevant year erroneously omitted to include therein a certain property, the amendment made in July 1970, will cure each of the lists from the defect from which it suffered. [285F]

4.A comparison of the provisions of s. 68A with those of s. 67 shows that the words of limitation contained in the former section as regards the time from which an amendment can come into force are conspicuously absent in the latter. Since the purpose of s. 67 'is to bring to assessment properties which have altogether escaped assessment the legislature evidently thought that amendments made under it should have a wider operation as contrasted with those made under s. 68A. [286D]

Punjab National Bank v. New Delhi Municipal Committee, [1973] 3, S.C.R. 189, 193 and Municipal Corporation of City of Hubli v. Subha Rao Hanumanatha Rao Prayag and Others. [1976] 3 S.C.R. 883 held inapplicable.

JUDGMENT:

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 289 of 1974.

From the Judgment and Order dated 27-3-73 of the Delhi High Court in Civil Writ No. 445 of 1968 and 281

Civil Appeal No. 611/74

From the Judgment and Order dated 27-3-73 of the Delhi High Court in Civil Writ No. 177 of 1968.

F.S. Nariman, Bikramjit Nayar, B. P. Maheshwari and Suresh Sethi for the Appellant (In both the appeals).

K.L. Hathi, Ravindra Sethi and P. C. Kapoor for Respondent (In CA No. 289/74).

The Judgment of the Court was delivered by CHANDRACHUD, J.-These appeals, by a certificate of fitness granted by the Delhi High Court, arise out of a common judgment dated March 27, 1973 given by the High Court in writ petitions filed by the respondents against the appellant, the New Delhi Municipal Committee. The facts of the two writ petitions being similar, we will only set out those of Civil Appeal No. 289 of 1974, which arises out of a writ petition filed in the High Court by the Life Insurance Corporation of India.

For convenience, we will refer to- the appellant as 'the Municipal Committee' and to the respondent as 'the L.I.C.'. The L.I.C. is the owner of a building known as 'Jeevan Vihar', Parliament Street, New Delhi. The Municipal Committee assessed the building to house-tax for the years 1963-64, 1964-65, 1965-66, 1966-67 and 1967-68 on the basis of actual rent received by the L.I.C. The L.I.C. paid the tax as assessed for these years but in February 1968 it received five notices from the Municipal Committee stating, that in exercise of the powers conferred by s. 67 of the Punjab Municipal Act, 3 of 1911, it had decided by a resolution dated January 27, 1968 to amend the

lists of assessment for the aforesaid five years by including therein the rent of a portion of the basement of the building which had escaped inclusion in the respective lists.

In June 1968, the L.I.C. filed a writ petition in the Delhi High Court praying that the aforesaid resolutions of the Municipal Committee be quashed and that it be restrained from realising the additional tax which it proposed to levy under its resolution, on the ground that it had no jurisdiction under s. 67 of the Act to amend the assessment lists of previous years. In view of the importance of the question, the writ petition was referred for decision to a full bench of the High Court.

The High Court has held that the assessment lists settled under s. 66 of the Act, together with the amendments if any, can only operate prospectively in and for the financial year next following and not for any previous year. In this view, the High Court allowed the writ petition except in regard to the amendment made in the list of 1967-68. The other writ petition too was allowed except for the year 1966-67.

Chapter V of the Punjab Municipal Act, 1911 deals with 'Taxation'. Section 61(1)(a) thereof authorises imposition of a tax payable by the owners on buildings and lands. Section 62 provides

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that the Municipal Committee may, at a special meeting, pass a resolution proposing the imposition of any tax under s. 61. Sections 63, 64, 65, 66 and 67 prescribe the procedure for assessing immovable properties to property-tax. Section 63 provides that the Committee shall cause an assessment list to be prepared of all buildings and lands on which any tax is proposed to be imposed. By s. 64, on completion of assessment list, the Committee is required to give public notice of the place where the list or a copy, thereof may be inspected. Section 65 requires the Committee, at the time of publication of this list, to give a public notice as to the time when it will proceed to revise the valuation and assessment made in the list. For this purpose, the Committee is required to invite objections to the valuation and assessment within the time fixed in the notice.

The question for decision in these appeals depends primarily on the construction of ss. 66 and 67 of the Act, which must be reproduced fully. These sections read as follows :

"66(1) After the objections have been inquired into and the persons making them have been allowed an opportunity of being heard either in person or by authorized agent, as they may think fit, and the revision of the valuation and assessment has been completed, the amendments made in the list shall be authenticated by the signatures of not less than two members of the committee, who, shall at the same time certify that no valid objection has been made to the valuation an

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assessment contained in the list, except in the cases in which amendments have been entered therein; and, subject to such amendments as may thereafter be duly made, the tax so assessed shall be deemed to be the tax for the year commencing on the first day of January or first day of April next ensuing as the committee may determine, or in the case of

a tax then imposed for the first time for the period between the date on which the tax comes into force and such first day of January or April, as the case may be.

(2) The list when amended under this section shall be deposited in the committee's office and shall there be open during office hours to all owners or occupiers of property 'comprised therein or the authorized agents of such persons, and a public notice that it is so open shall forthwith be published.

67.(1) The committee may at any time amend the list inserting the name of any person whose name ought to have been or ought to be inserted or by inserting any property which ought to have been or ought to be inserted, or by altering the assessment on any property which has been erroneously valued or assessed through fraud, accident or mistake, whether on the part of the committee or of the assessee, or in the case of a tax payable by the occupier by a change in the tenancy, after giving notice to any person affected by the amendment, of a time, not less than one month from the date of service, at which the amendment is, to be made.

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(2) Any person interested in any such amendment may tender his objection to the committee in writing before the time fixed in the notice, or orally or in writing at that time, and shall be allowed an opportunity of being heard in support of the same in person, or by authorized agent, as he may think fit."

By section 68, the Municipal Committee has the discretion to prepare a new assessment list every year or to adopt the valuation and assessment contained in the list for any year as the valuation and assessment for the following year. Section 68A which, like s. 67, deals with the power to amend assessment lists reads thus :

"68A. Power to amend assessment list in certain cases.(1) Notwithstanding anything contained in this Chapter, where the prescribed authority is satisfied that any property has been erroneously valued or assessed through fraud, accident or mistake, whether on the part of the committee or of the assessee, it may, after giving to the assessee an opportunity of being heard and after making such enquiry as it may deem fit, pass an order amending the assessment already made and fixing the amount of tax payable for that property and on the issue of such an order the assessment list then in force shall, subject to the order, if any, passed in appeal, be deemed to have been amended accordingly with effect from first day of January, or first day of April, or first day of July, or first day of October next following the month in which the order is passed.

(2) Any person aggrieved by an order of the prescribed authority may, within a period of thirty days of the date of communication to him of the order, file an appeal to the State Government which shall decide the appeal after

giving to the appellant an opportunity of being heard."

Section 68A, it must be stated, was introduced by Act 8 of 1974 and there was no corresponding provision in the Act at the time, when the lists in question were amended.

In order to determine the scope and extent of the Municipal Committee's power to amend an assessment list and the effect of an amendment made in a list, regard must necessarily be had to the language, of the statute under consideration and its overall scheme governing the preparation and amendment of assessment lists. Decisions on other Municipal Acts containing similar provisions may with profit be perused but they cannot be considered as binding pronouncements on the Act which we have to construe in these appeals.

In the first place, the Municipal Committee has the undoubted power under s. 67 to amend an assessment list "at any time." The width of this power may justifiably be curtailed by reading the expression "at any time" to mean "within a reasonable time" as was canvassed in *Punjab National Bank v. New Delhi Municipal Committee*(1) but the question of reasonableness does not arise in this case and was not

(1) [1973]3 S.C.R. 189,193, 284

raised in the High Court. The point of importance is that the Committee's power to amend an assessment list is not limited by the consideration that the list has already become final by authentication. It has the power to amend a list even after it is finalised and has already come into force. That is the important effect and implication of the expression "at any time", which cannot be overlooked. Assessment lists relating to property tax are generally finalised by authentication before the 31st of March and are made operative from the ensuing 1st of April to the following 31st of March. In exercise of the power conferred by s. 67, the Committee can amend a list even after the 31st of March, despite the fact that the list has been finalised and has come into force. The argument that an assessment list cannot be amended under s. 67 after its finalisation was rejected by this Court in the *Punjab National Bank* case (supra).

If the Municipality is expressly given the power by s. 67 to amend an assessment list "at any time" and if in pursuance of that power a list can be amended after it has come into force, it is difficult to appreciate how any extra-statutory limitation can be placed upon that power. It may be assumed that the power ought to be exercised within a reasonable time since, the use of expressions of wide amplitude like "at any time" does not exclude the concept of reasonableness. But subject to that consideration, the power of amendment can be exercised even after the expiry of the year for which the list is to remain in force. In other words, it is not necessary that the list which was finalised, say on the 31st of March 1963 must, if at all, be amended before the 31st of March 1964. The list can be amended any time later which means that it can be amended even after the expiry of the 31st of March 1964.

Section 67 of the Act itself shows the object and purpose of conferring on the Municipal Committee the power to amend an assessment list. If the name of a person whose name ought to be inserted in the list has been omitted or if a property which ought to be included in the list has been omitted or if a property has been erroneously valued or assessed through fraud, accident or mistake on the part of either party, or if the tenancy has changed in those cases

in which the tax is payable by the occupier, it becomes manifestly necessary to make appropriate amendments in the assessment list. The reason why the legislature, by s. 67, has conferred on the Municipal Committee the power to amend an assessment list at any time is that the omission, by reason of which a property has escaped assessment, may be discovered a long time after the list has ceased to be operative. The larger interest of the general public requires in such cases that the Municipal Committee which is under a statutory obligation to provide civic amenities to the people, must have the power to do what, ought to have been done but which, for some reason or the other, had remained to be done. In the instant case, a part of the basement is alleged to have escaped assessment and if that be true, we are unable to understand that the assessee, the L.I.C. here, could in face of s. 67 raise a contention that the assessment lists of 285

past years, though faulty, cannot now be corrected. The Municipal Committee has to find funds, within the limits of its authority, for discharging its statutory obligations. But the argument is that if, through mistake or oversight, or even due to fraud, a property has escaped assessment, the mistake cannot be corrected retrospectively and the fraud has to be suffered except in regard to a correction limited to the ensuing year. This is denying to the expression "at any time" even its plain, grammatical meaning, quite apart from ignoring the context in which it occurs and the beneficent purpose of its incorporation. The expression must, in our opinion, be given its full force and effect which requires the recognition of the Committee's power to amend an assessment list even after the expiry of the following the one in which the list was finalised by due authentication.

Sections 66 and 67 have to be read as two integral parts of a scheme which the legislature has prescribed for preparation, assessment and amendment of assessment lists. After preparing under s. 63 an assessment list of all buildings and lands on which a tax is proposed to be imposed, the Committee has to invite, hear and enquire into objections to the proposed assessment. The revision of valuation and assessment is then to be completed under s. 66 by incorporating in the list such amendments as are considered necessary after deciding upon objections. The tax so assessed in the authenticated list becomes under s. 66(1) the tax for the year commencing on the first day of January or first day of April next ensuing as the Committee may determine. But the scheme contemplated by s. 66 is subject to an important condition mentioned in the section itself, namely, that the tax assessed under an authenticated list becomes the tax for the particular period, "subject to such amendments as may thereafter be duly made". The word "thereafter" means "after the list is finalised on the completion of revision of valuation and assessment" and "duly made" evidently refers to the exercise of the amending power under s. 67. Thus, the two sections read together yield the result that the list can be amended at any time, after its finalisation, subject of course to the prescription of reasonableness.

What effect then does an amendment duly made under s. 67 have on the list of assessment? If the Committee discovers, say in July 1970, that a property has escaped assessment since April 1, 1967 it possesses under s. 67 the power to make an appropriate amendment. What is often overlooked is that though the amendment may have been made

in 1970, what the Committee amends is the lists which were in force from April 1, 1967 to March 31, 1968, April 1, 1968 to March 31, 1969, April 1, 1969 to March 31, 1970, and April 1, 1970 to March 31, 1971. If every one of these four lists which were in force during the respective years erroneously omitted to include therein a certain property, the amendment made in July 1970 will cure each of the lists from the defect from which it suffered. It is wrong to think that an amendment made in July 1970 will operate only on the list for the year then current or the year ensuing. Such a view lacks the support of the text of the statute. Section 68A, it is true, came into force in 1974 but by providing a striking contrast with s. 67, it facilitates a clearer understanding of

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this latter section. Section 68A provides briefly that if any property is erroneously valued or assessed through fraud, accident or mistake, the prescribed authority may amend the assessment already made and thereupon the amended assessment list shall be deemed to have been amended with effect from the first day of January, or April, or July, or October nextfollowing the month in which the order of amendment is passed. Section 68A does not deal with cases in which a property has escaped assessment altogether.

It deals with that limited class of cases in which a property has been included in the assessment list but has been erroneously valued or assessed. In such cases of erroneous valuation or assessment, the amendments made in the assessment lists have no retrospective operation with the result that valuation or assessment already made, though erroneous, remains valid for the past years. Amendments falling within s. 68A operate in the future and can be effective only from the dates mentioned in the section and not from any earlier point of time. A comparison of the provisions of s. 68A with those of s. 67 shows that the words of limitation contained in the former section as regards the time from which an amendment can come into force are conspicuously absent in the latter. Since the purpose of s. 67 is to bring to assessment properties which have altogether escaped assessment, the legislature evidently thought that amendments made under it should have a wider operation as contrasted with those made under s. 68A.

The Full Bench of the High Court, with respect, has missed the real point in the case. It says that since by s. 66, both the unamended and the amended lists operate with effect from the, year commencing on the first day of January or April, 'next ensuing', "the list settled under section 66 together with the amendments, if any, is to operate prospectively in and for the financial year next following and not for any previous year." That the amended list operates prospectively is correct because after all, the amendment is made to the original list and that list has prospective operation. As we have explained above, each assessment list is effective for the ensuing year, so that the list settled before 31st of March operates for the year commencing with the ensuing 1st of April and ending with the 31st of March following. But the list in force for such an ensuing year can under s. 67 be amended at any time with the result that when a list which was finalised say on March 25, 1970 is amended in August 1973, the amendment becomes effective for the year for which the list itself was effective, that is to say, for the year April 1, 1970 to March 31, 1971. The words 'next ensuing' which occur in s. 66 cannot as the High Court thinks, be correlated to the date of, the amendment so as

to mean "the year next ensuing after the year in which the amendment is made." This reasoning overlooks the true purpose and purport of the Committee's power to amend a list at any time and robs that power of its meaningful content. We are clear that the Full Bench is wrong in its conclusion that the "expression 'at any time' in s. 67..... has reference only to the point of time when the list can be amended."

We may in passing observe, though that aspect of the matter ceases to have importance in the view we are disposed to take, that the

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High Court further fell into an error in applying the ratio of its judgment to the facts before it. It held that an amendment can operate only on the year ensuing the one in which it is made, but in working out this principle, it unwittingly gave some retrospective effect to the impugned amendments. It has declared that the amendment made in January 1967 will be effective for the year 1966-67 and that made in February 1968 will be effective for the year 1967-68. Consistently with its reasoning, it should have held that the two amendments would be effective for the years 1967-68 and 1968-69 respectively, each year commencing on April 1 and ending with March 31. But that, as we said, is not relevant.

The decision of this Court in Punjab National Bank (supra) on which counsel for the L.I.C. relies does not support the view contended for by him. In that case a building belonging to the Punjab National Bank was not entered in the assessment list which was to be operative for the period April 1, 1958 to March 31, 1959. That list was amended on December 21, 1959. The only point that arose for consideration in the appeal, as is expressly mentioned by Mathew, J., in his judgment, was whether the Municipal Committee was entitled to include the building in the assessment list which was operative from April 1, 1959 to March 31, 1960 by amending it in December 1959. Repelling the Bank's contention that the list once finalised could not be amended thereafter, the Court held that the amendment was effective for the year during which the original list was operative.

Finally, we are unable to accept the contention of the learned counsel for the L.I.C. that the question which arises for our consideration in these appeals is concluded by a decision of this Court in Municipal Corporation of City of Hubli v. Subha Rao Hanumantharao Prayag and Others.(1) That is a decision on the Bombay Municipal Boroughs Act 18 of 1925, and as the judgment of Bhagwati, J., in that very case says, in interpreting a particular provision of a statute the court must consider other parts of that statute and read the statute as a whole. We have discussed the entire scheme of the Punjab Municipal Act and have pointed out how on a consideration of its various provisions it is not possible to sustain the view taken by the High Court.

In Municipal Corporation of City of Hubli,(1) on which the respondent strongly relies, the Corporation followed the due procedure for the assessment year 1951-52 except that the list of assessment containing the revised assessment was authenticated on July 24, 1952 which was after the expiry of the official year on March 31, 1952. The Corporation having sought to levy property tax in accordance with the revised rates for the year 1951-52, a suit was filed by the assessee for a declaration that it was not entitled to recover the tax at the revised rates for that year. The suit was decreed by the Trial Court and the High Court. In appeal to

this Court, two contentions were raised on behalf of the Municipal Corporation, namely, that (1) the authentication of the assessment list in order to be valid and effective need not be made before the expiry of the official year to which the

(1) [1976] 3 S.C.R. 883.

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assessment list relates and (2) the suit was barred under s. 206A of the Act. We are not concerned with the second question nor indeed with the first; but in order to understand the respondent's argument it is necessary to state that this Court held on the first question that an assessment list intended for a particular year must be authenticated before the expiry of the previous official year and that if it is not so authenticated it will not give rise to any liability in the rate-payers to pay to the tax for the year for which it is intended to be effective. This pronouncement does not touch the points in controversy before US.

Nor indeed can any assistance be derived from the interpretation put on s. 82 (3) of the Bombay Act in that case. contemplates, inter alia, amendments or alterations (i) Those in regard to buildings constructed, altered, constructed and (ii) those in regard to other cases. first category, sec. 82(3) of the Bombay Municipal provides that the amendment or alteration shall have That provision in two cases : added to or oreAs regards the Boroughs Act the same effect as if it had been made in the case of a building constructed, altered, added to or reconstructed on the day on which such construction, alteration, addition or reconstruction was completed or on the day on which the new construction, alteration, addition or reconstruction was first occupied, whichever first occurs. As regards the second category, namely the "other cases", the alteration takes effect as if it had been made on the earliest day in the current official year on which the circumstances justifying the entry or alteration existed."The discussion of this sub-section at page 890 of the report is in respect of the second category of cases in regard to which there is anexpress statutory provision that the amendment takes effect only fromthe earliest day of the official year current when the amendment ismade. We do not think that there is any parallel between s. 82(3) of the Bombay Act and S. 67 of the Punjab Municipal Act.

For these reasons we allow these appeals and set aside the judgment of the High Court. The writ petitions filed by the respondents will, as a consequence, stand dismissed, The appellant will be entitled to its costs in one set which shall be recovered from the Life insurance Corporation of India.

P.B.R.

Appeal allowed.

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