PETITIONER:
UNION OF INDIA AND ANR.

Vs.

RESPONDENT:
U.P. STATE WARE HOUSING CORPORATION

DATE OF JUDGMENT31/10/1990

BENCH:
PUNCHHI, M.M.
BENCH:
PUNCHHI, M.M.
AGRAWAL, S.C. (J)

CITATION:
1991 AIR 1374 1990 SCR Supl. (2) 523
1991 SCC Supl. (2) 730 JT 1990 (4) 451
1990 SCALE (2)924

ACT:
Income Tax Act, 1961 --Section 10(29)--Exemption--Tests--Whether rental income derived from godowns and warehouse of U.P. State Ware Housing Corporation exempted.

HEADNOTE:
The Income Tax Officer required the U.P. State Ware Housing Corporation, a creature of the Ware Housing Corporations Act, 1962, to pay a sum of money as advance tax for the Assessment Year 1974-75, taking the view that rental income derived by the assessee-Respondent from its godown and ware-homes was not exempted.

The claim of exemption under section 10(29) of the Income Tax Act of the assessee having been repeatedly rejected by the Appellants, it filed a writ petition in the High Court challenging the notice.

The High Court quashed the notice, allowing the case of the assessee-Respondent.

In the appeal by the certificate the Revenue-Appellants assailed the view of the High Court.

Dismissing the appeal, this Court,

HELD: 1. The assessee would be entitled to exemption, if (i) it is an authority constituted under any law; (ii) it is an authority constituted for marketing of commodities; (iii) the exemptable income is in respect of letting of godowns or ware-houses for storage, processing or facilitating the marketing of commodities. [525D-E]

2. Plain reading of Section 10(29) makes it evident that the authority must he constituted under any law for the time being in force, which in other words means that it should be a creature of law. As an artificial person, it should be clothed with a personality ordained by law. [525G]

3. In the instant case, the first test was proved that the assessee
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was an authority under the Ware Housing Corporations Act, 1962. [525F]

4. The second test requiring the authority to be constituted for marketing of commodities is also fully satisfied by Section 24(d) of the Ware Housing Corporations Act, 1962.

The activities of the assessee as an agent were the activities facilitating the marketing of commodities, which have a business element and the second test was also established. [526B-C]

5. The third test with regard to the exemptable income being in respect of letting of godowns or ware-houses for storage, processing or facilitating the marketing of commodities presents no difficulty because it stands undisputed that the income derived by the assessee was from letting 01' godowns or ware-houses. The assessee having fulfilled all the tests was rightly entitled to the exemption as claimed. [526D-E]

JUDGMENT: