

Court No. - 46

Case :- WRIT TAX No. - 1182 of 2023

Petitioner :- Renu Kohli And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Ashish Kumar Singh,Ajay Kumar Singh

Counsel for Respondent :- C.S.C.,Gopal Krishna Pandey

Hon'ble Ashwani Kumar Mishra,J.

Hon'ble Syed Aftab Husain Rizvi,J.

Heard Sri Ashish Kumar Singh, learned counsel for the petitioners, learned standing counsel for State of U.P. and Sri Gopal Krishna Pandey, learned counsel for respondent nos. 2 and 3. Ms Tanya Mishra, learned counsel has appeared for respondent no.4.

The petitioners are aggrieved by demand of house tax in respect of property in question, primarily on the ground that liability to pay house tax is upon the occupant, by virtue of Section 179 read with Section 2(47) of the Uttar Pradesh Municipal Corporation Act, 1959. It is further stated that fourth respondent, who is occupant, is otherwise willing to deposit the amount provided it is given receipts in its name but the authorities are insisting that payment be made only by the petitioners.

Section 179(1) and 2(47) of The Uttar Pradesh Municipal Corporation Act, 1959 are reproduced hereinafter:

"179. Primary responsibility for certain property taxes on annual value.—(1) Except where otherwise prescribed, every tax (other than a drainage tax or a conservancy tax) on the annual value of buildings or lands shall be leviable primarily from the actual occupier of the property upon which the tax is assessed, if he is the owner of the buildings or lands or holds them on a building or other lease from the Central or the State Government or from the Corporation, or on a building lease from any person.

Section 2(47) "occupier" includes –

(a) any person who for the time being is paying or is liable to pay the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable;

- (b) an owner living in or otherwise using his land or building;*
- (c) a rent-free tenant;*
- (d) a licensee in occupation of any land or building; and*
- (e) any person who is liable to pay to the owner damages for the use and occupation of any land or building;"*

Perusal of the statutory provisions noticed above, would indicate that the liability to pay property tax would be upon the actual occupier, and therefore, petitioners' contention that the fourth respondent, being occupier, be allowed to pay the house tax, is an issue, which is required to be considered by the local authority.

In that view of the matter, we permit the petitioners to raise such issues before the second respondent, who shall accord consideration to the petitioners' claim, and in the event the fourth respondent is willing to deposit the taxes, the same shall be entertained, as per law. The decision in that regard would be taken, within four weeks, from the date of presentation of the copy of this order. Recovery of house tax shall abide by the adjudication made by the respondent authority in terms of the above direction.

Order Date :- 13.10.2023

MN/-