

CWP-16958-2015

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-16958-2015

Date of Decision: 07.01.2016

Raj Pal Singh Petitioner
 Versus
 State of Haryana and others Respondents

CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ramesh Hooda, Advocate
 for the petitioner.

Mr. R.D. Sharma, DAG, Haryana.

Mr. Abhishek Vyas, Advocate
 for Mr. Parteek Mahajan, Advocate,
 for the respondent No. 3.

RAJIVE BHALLA, J (ORAL)

The petitioner challenges the vires of sub Section (2) of Section 1 of the Haryana Municipal Corporation (Amendment) Act, 2012, read with Section 87 of the aforesaid enactment, on the ground of its retrospective operation.

We have heard counsel for the parties. The controversy in the present petition has been answered against the petitioner in paragraphs 22 and 23 of the judgment recorded by a coordinate Bench in CWP No. 17765 of 2015 (O&M) dated 10.09.2015. The relevant paragraphs namely paragraphs 22 and 23 the judgment read as under: -

“22. Another argument which was raised needs to be discussed at this stage. The leaned counsel for the

petitioner has referred to Clause 4 (i) of the notification dated 11.10.2013, which reads as under:-

“4. General

- (i) The new system of taxation and rates shall be applicable from the financial year 2010-11 onwards with the stipulation that for the period prior to the date of publication of this notification, the property owners shall have the option to pay as per the new or old policy, whichever is opted by them.”*

- 23. We find that the State legislature is competent to make the provisions of law as applicable retrospectively. In the present case, Section 21 of the amending Act, validates the notification issued on 30.9.2003 and 21.6.2012. Therefore, it is not a retrospective imposition of tax, but validating of the action taken earlier i.e. the notification dated 30.9.2003 and 21.6.2012. The notification dated 11.10.2013, has been issued in terms of Section 87(3) and Section 149 (1) of the Act. The levy of tax and rates have been made applicable from the Financial Year 2010-11 but with a further option that the property owners have the option to pay the same as per the new or old policy, whichever is opted by them. Therefore, it is open to the owners to opt for the rates, which were prevailing prior to the publication of the notification on 11.10.2013. It is not a retrospective taxation, but an option has been given to pay the tax as per the old policy or the new provisions. Thus, we do not find that the Notification dated 11.10.2013 is contrary to the provisions of the Statute.”*

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A perusal of the aforesaid extract reveals that the questions raised in the present petition having already been dealt with and answered against the petitioner.

The present petition is, therefore, dismissed in the aforesaid terms.

**[RAJIVE BHALLA]
JUDGE**

January 7, 2016
Suresh Kumar

**[LISA GILL]
JUDGE**