is *en masse* or collective would not justify the abandonment of the hallowed principle that quasi-judicial power must be exercised independently and untrammelled by any extraneous influence.

(20) With the aforesaid words, I would reiterate my concurrence with Tuli, J., on all the other points.

N. K. S.

APPELLATE CIVIL

Before R. S. Narula. C.J., and M. R. Sharma, J.

RAJA RAGHAVINDER SINGH,—*Appellant*

versus

THE STATE OF PUNJAB, ETC.,—*Respondents.*

Letters Patent Appeal No. 76 of 1973.

April 2, 1975.

Income Tax Act (XLIII of 1961)—Sections 2(24) and 10(2)—Income Tax Act (XI of 1922)—Sections 2(6C) and 14(1)—Rulers of erstwhile Princely States surrendering their sovereignty by executing instruments of accession—Union of India agreeing to pay privy purses to such Rulers and allowances to their relations—Receipt of periodical allowance by a relation of such a Ruler—Whether constitutes 'income'—Such periodical receipt—Whether exempt from payment of income-tax.

Held, that section 2(6C) of the Income Tax Act, 1922 and section 2(24) of the Income Tax Act, 1961, give an inclusive definition of the word "income". Whenever a term is given such a definition in a statute, it means not only the things mentioned therein, but also includes in its ambit the meaning of the term as generally understood. Income conotes a periodical monetary return coming in with some sort of regularity or expected regularity from definite sources and the multiplicity of forms which it may assume is beyond enumeration. In other words, the word 'income' has to be given a very wide meaning. Therefore, a periodical receipt of an allowance by relation of an erstwhile Princely Ruler in lieu of the execution of a document of accession constitutes income for the purposes of Income Tax Acts.

(Para 10)

Held, that anything which can properly be described as income is taxable under the Acts. Wherever the Legislature grants exemp-

tion to an income or to a transaction from payment of tax, the burden lies on the assessee to show that his income falls within an exception to the general rule. Under section 14(1) of the Income Tax Act, 1922 and section 10(2) of the Income Tax Act, 1961, only the sums received by an individual member of an Undivided Hindu Family which are paid out of the income of such a family or the sums paid out of the income of impartible estate of such a family are exempt from payment of income tax. The sum of monthly maintenance allowance received by a relation of the erstwhile Ruler of a Princely State from the consolidated Fund of the Union of India in contradistinction with the income of the Joint Hindu Family or the impartible estate under a political arrangement whereby the Union of India had agreed to pay maintenance allowances to the relations of such a Ruler does not fall within the exemption as the erstwhile princely States lapsed when their Rulers executed instruments of accession in favour of the Union of India and the property of the family of the Rulers or the impartible estate, if any, came to vest in the Union of India. Hence such a maintenance allowance received by a relation of the Ruler of an erstwhile Princely State is not exempt from the payment of income-tax.

(Paras 12 and 14)

U. S. Sahney, Advocate, *for the Appellant.*

D. N. Awasthy, Advocate, *for the Respondents.*

JUDGMENT

SHARMA, J.—After India attained independence on August 15, 1947, the erstwhile Princely States of Patiala, Kapurthala, Jind, Malerkotla, Nabha, Faridkot, Kalsia and Nalagarh entered into a covenant with the Union of India and formed a state commonly known as the Patiala and East Punjab States Union. The then His Highness the Maharaja of Patiala, by common agreement, was appointed as the Raj Parmukh of the State. The ruling Princes of the covenanting States surendered their sovereignty, the State properties and the territories forming their respective States. The Government of India, in turn, agreed to pay Privy Purses to the ruling Princes and allowances to their dependants or their relations. The Ruler of the erstwhile State of Patiala, pursuant to this agreement, was informed by letter, dated April 2, 1949, by the Ministry of States, Government of India, regarding its decision with regard to the Privy Purse, allowance admissible to him as Raj Parmukh and allowances for Rajmatas and other relations.

(2) The Privy Purse of the then His Highness the Maharaja of Patiala was fixed at Rs. 17 lacs per annum and his allowance as Raj Parmukh was fixed at Rs. 5 lacs per annum. The latter allowance was exclusive of the cost of the staff required for the Private Secretary's office which was to be paid for separately by the PEPSU Government. Both these allowances were personal to the then Raj Parmukh and in case of his demise they were to be re-fixed for his successor

(3) For the other relations of the Raj Parmukh, a sum of Rs. 5 lacs was sanctioned. The dowager Maharani was allowed a sum of Rs. 50,000.00 a year and the remaining sum of Rs. 4½ lacs was to be distributed between all other relations of late His Highness the Raj Parmukh. Originally, this sum of Rs. 5 lacs was being drawn by late His Highness the Raj Parmukh and then distributed between his relations till 1953. Thereafter, the Maharaja of his own accord declined to undertake this job and the members of the family started drawing their respective allowances directly from the Patiala Treasury without any deduction of income-tax at source.

(4) The appellant Raja Raghavendra Singh is half brother of late His Highness the Raj Pramukh. He was sanctioned an amount of Rs. 2,000 per month as allowance out of the sum of Rs. 5 lacs set apart for the relations of the then His Highness the Raj Pramukh.

(5) Purusant to the circular issued by the Finance Department on May 17, 1955, the Treasury Officer, Patiala, started making advance deductions of income-tax from the allowance admissible in the case of the appellant.

(6) Aggrieved by these deductions, the appellant filed a representation before the Commissioner of Income Tax, Patiala, who held that there was no specific provision exempting this allowance from payment of income-tax and hence rejected this representation on August 25, 1965.

(7) The appellant then filed Civil Writ No. 657 of 1967 in this Court challenging the imposition of income-tax on the ground that he was being paid this allowance as a member of the Hindu Undivided Family out of the income of the family, as also on the ground that the erstwhile State of Patiala was an impartible estate and that

this fund was being paid out of the income of the holder of the estate belonging to the family. This petition was dismissed by a learned Judge of this Court and hence this appeal, under Clause X of the Letters Patent.

(8) It was urged on behalf of the appellant that the State of Patiala was an imartible estate or the property of the joint Hindu family of which the appellant was a member. This property was regulated by the rule of primogeniture in matters of succession. According to this rule, the eldest son succeeds to the *gaddi* as a Ruler and the younger ones, called the Maharaj Kumars, were entitled to suitable maintenance allowances out of the income of the impartible estate. This right had been recognised from the time when the erstwhile State of Patiala was carved out of its first Ruler. Subsequently, on October 13, 1860, the Rulers of the erstwhile States of Patiala, Nabha and Jind entered into a voluntary agreement styled as *Dastur-UI-Amal* granting statutory recognition to this right. In this document, it was provided that the authority in respect of the matters relating to the affairs of the State and its maintenance shall vest in the Ruling Chief, and all members Zaildars and subordinates, shall be under his power and authority. The maintenance allowance (*guzara*) of the Kanwars and other relations of the Ruling Chief should be fixed according to the norms stated in that document.

Even if it were held that the provisions of this document were not justiciable in a Court of law, they do furnish an evidence of custom in favour of the relations of the Ruler regarding claims for maintenance allowances. The trend of the judgments of the Privy Council is that an ancestral impartible estate is a joint family property notwithstanding the fact that there is neither a right to partition nor a right to restrain any alienation: (See in this connection *Baijnath Prashad Singh and others* v. *Tej Bali Singh* (1), *Konammal* v. *Annadana* (2), *Shiba Prasad Singh* v. *Rani Prayag Kumari Debi and others* (3), *and Collector of Gorakhpur* v. *Ram Sunder Mal and others* (4). Even after the merger of the erstwhile State of Patiala

(1) (1920-21) L.R. 48 I.A. 195.
(2) (1927-28) L.R. 55 I.A. 114.
(3) (1931-32) L.R. 59 I.A. 331.
(4) (1933-34) L.R. 61 I.A. 286.

in the Union of India, the appellaut continued to get an allowance of Rs. 2,000 per mensem under the letter dated April 2, 1949, issued by the Ministr yof States, Government of India. Under these circumstances, it must be held that when the erstwhile State of Patiala was in existence, the appellant was receiving maintenance allowance in accordance with the principles of the customary law governing the family.

(9) The questions which now remain to be seen are whether this amount in the hands of the appellant can be regarded as income for the purpose of Income Tax Act and further ,whether there is any statutory exemption in favour of the appellant from payment of income-tax on this amount.

(10) Section 2(6C) of the Income Tax Act, 1922 and section 2(24) of the Income Tax Act, 1961, give inclusive definitions of the word "income". Whenever a term is given such a definition in a statute, it means not only the things mentioned therein but also includes in its ambit the meaning of the term as generally understood. The word "income" has been defined in the Shorter Oxford English Dictionary, Third Edition, Volume I, as follows:—

> "That which comes in as the periodical produce of one's work, business, lands, or investments (commonly expressed in terms of money); annual or periodical receipts accruing to a person or corporation; revenue."

In the *Commissioner of Income Tax* v. *Shaw Wallace and Company* (5), Sir George Lowndes defined the term 'income' as follows:

> "Income.....in this Act connotes a periodical monetary return 'coming in' with some sort of regularity, or expected regularity, from definite sources."

In *Kamakshya Narain Singh* v. *Commissioner of Income Tax* (6) was observed,—

> "The multiplicity of forms which income may assume is beyond enumeration."

(5) 59 Indian Appeals 206, 6 I.T.C. 178.

(6) 1943 I.T.R. 513.

In other words, the word "income" has to be given a very wide meaning. In this context, the allowance drawn by the appellant which is a periodical receipt would have to be regarded as his income.

(11) A tax is burden or a charge imposed by the Legislature upon persons or property to raise money for public purposes.

In *Shri Jagannath* v. *State of Orissa* (7), it was observed as follows:— ... ...

> "A tax is undoubtedly in the nature of a compulsory exaction of money by a public authority for public purposes, the payment of which is enforced by law. But the essential thing in a tax is that the impositions is made for public purposes to meet the general expenses of the State without reference to any special benefit to be conferred upon the payers of the tax. The taxes collected are all merged in the general revenue of the State to be applied for general public purposes. Thus, tax is a common burden and the only return which the tax payer gets is the participation in the common benefits of the State."

(12) A common burden must be borne by all the citizens unless, of course, there is a legislative mandate to the contrary. In this sense, it may be observed that wherever the Legislature grants exemption to an income or to a transaction from payment of tax, the burden lies on the assessee to show that his income falls within an exception to the general rule. In *Maharajkumar Gopal Saran Narain Singh* v. *The Commissioner of Income Tax, Bihar and Orissa* (8), Lord Russell of Killowen observed,—

> "Anything which can properly be described as income is taxable under the Act, unless expressly exempted."

In other words, in order to excape liability of payment of tax, the appellant must show that his case falls squarely within the four-corners of a statutory exemption.

(13) Article 291 of the Constitution of India, section 4(x)(a), Income Tax Act, 1922 and section 10(19) of the Income Tax Act, 1961, are of no avail to the appellant because only Privy Purses have been exempted from payment of income-tax under these provisions.

(7) A.I.R. 1954 S.C. 400.

(8) 1935 (111) I.T.R. 237.

(14) Faced with this situation, the counsel for the appellant relied upon section 14(1) of the Income Tax Act, 1922, and section 10(2) of the Income Tax Act, 1961. They read as under:

> "14(1) The tax shall not be payable by an assessee in respect of any sum which he receives as a member of a Hindu undivided family where such sum has been paid out of the income of the family or in the case of an impartible estate where such sum has been paid out of the income of the holder of the estate belonging to the family."

> "10. In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included—
>
> (1) * * * * 1
> * * * * * *
>
> (2) any sum received by an individual as a member of a Hindu undivided family, where such sum has been paid out of the income of the family, or in the case of any impartible estate, where such sum has been paid out of the income of the estate belonging to the family."

A close examination of these provisions shows that only the sums received by an individual as a member of an undivided Hindu family which are paid out of the income of such family or the sums paid out of the income of an impartible estate of such a family, are exempted from payment of income-tax. The erstwhile State of Patiala lapsed when its Ruler executed an instrument of accession in favour of the Union of India. The property of the family or the impartible estate, if any, came to vest in the Union of India. Under a political arrangement, the Union of India agreed to pay maintenance allowances to the relations of the Ruler of the erstwhile State. These allowances were paid out of the Consolidated Fund of the Union in contradistinction with the income of the joint Hindu family or an impartible estate. The case of the appellant does not fall within the exception to the general rule. In these circumstances, the appellant has been rightly burdened with the liability of payment of Income-Tax.

(15) The judgments relied upon by the appellant for claiming exemption are clearly distinguishable. In *re. Gaejapatiraj Bahadur, Vizianagaram* (9), the younger brother of the Maharaja Vizianagaram

(9) A.I.R. 1934 Allahabad 8 P.

was allowed exemption from payment of tax on the allowance received by him because the impartible estate out of the income of which this allowance was paid had not been extinguished either by an instrument of accession executed by the Ruler or by operation of law. *Commissioner of Income Tax, Bihar and Orissa* v. *Maharaja Visweswar Singh* (10), *Commissioner of Income Tax, Bihar and Orissa* v. *Maharani Gyan Manjuri Kaur* (11), *Commissioner of Income Tax* v. *Sarwan Kumar* (12) and *Commissioner of Income Tax Central and United Provinces* v. *Rani Bijay Raj Kunwari* (13), were decided on almost similar facts. The appellant cannot derive any assistance from them.

(16) On the other hand, the Division Bench decision of the Orissa High Court in *Rajkumar Lakshminarayan Bhanja Deo* v. *Commissioner of Income Tax, Bihar and Orissa* (14), goes against the appellant. In that case, maintenance allowance of Rs. 2,000 per month payable to the younger brother of the Ruler of Keonjhar was not exigible to income tax under the Keonjhar Income Tax Regulation, 1938. After the merger of the Keonjhar State with the province of Orissa with effect from January 1, 1948, the State income tax regulations were repealed by virtue of section 7(1) of the Taxation Laws (Extension to Merged States and Amendment) Act (67 of 1949), because the Indian Income Tax Act, 1922, was brought into force also in the territories of Ex-Keonjhar State with effect from April 1, 1949. The Court held that by virtue of Article 372 of the Constitution, the Indian Income Tax Act, 1922, became applicable with effect from April 1, 1949, and since an allowance was not exempted by any notification issued under section 60 of that Act, it was exigible to income-tax.

(17) As a result of the foregoing discussion, I hold that the appellant is liable to pay income-tax in accordance with law on the maintenance allowance of Rs. 2,000 per month received by him. This appeal deserves to fail and I order accordingly. In the circumstances of the case, there will be no order as to costs.

Chief Justice.—I agree.

(10) (1935) 3 I.T.R. 216.
(11) (1945) 13 I.T.R. 55.
(12) (1945) 13 I.T.R. 361.
(13) (1948) 16 I.T.R. 1
(14) (1965) 58 I.T.R. 457.

B.S.G.