

APPELLATE CIVIL.

Before Mr. Justice Spencer and Mr. Justice Phillips.

NARASAMMAL (PLAINTIFF), APPELLANT,

v.

1915.
September
24 and 28.

THE SECRETARY OF STATE FOR INDIA IN COUNCIL
REPRESENTED BY THE COLLECTOR OF TRICHINOPOLY
(DEFENDANT), RESPONDENT.*

Income-Tax Act (II of 1886), Part IV, sch. II, sec. 3, cl. (5)—Annuity in Mysore Province—Annuitant resident in British India—Remittance by agent to her in British India—‘Income,’ meaning of—Income, if taxable in British India

Where a person was enjoying an annuity in Mysore Province, instalments of which were remitted by her agent to her while she was resident in British India, the remittances were “income” under Part IV of schedule II of the Income-Tax Act, and these sums were “received in British India” within the definition contained in section 3, clause (5), of the Act and therefore taxable.

SECOND APPEAL against the decree of C. KRISHNASWAMI RAO, the Subordinate Judge of Trichinopoly, in Appeal No. 296 of 1913, preferred against the decree of T. JIVAJI RAO, the District Munsif of Strirangam, in Original Suit No. 86 of 1912.

The facts of the case appear from the judgment.

C. S. Venkata Achariyar and N. C. Vijayaraghavachariyar for the appellant.

The Government Pleader for the Crown.

The following judgment of the Court was delivered by

SPENCER, J.—This appellant was enjoying an annuity in Mysore Province, instalments of which were remitted by her agent to her while she was resident in British India. SPENCER AND
PHILLIPS, JJ.

We agree with the Subordinate Judge that these remittances were “income” under Part IV of schedule II of the Income-Tax Act(1).

It is argued that after collection by the agent, the money ceased to be income, that the act of the agent in receiving the money in Mysore was tantamount to an act of the principal, and that having once been received in Mysore, it could not again be received in British India when the agent sent it on to

* Second Appeal No. 1617 of 1914.

(1) Act II of 1886.

NARASAMMAL
v.
THE
SECRETARY
OF STATE
FOR INDIA.
—
SPENCER
AND
PHILLIPS, JJ.

his principal. "Income" means "what comes in"—a definition which will clearly embrace sums derived from a source like this; and it is incontestable that in this case these sums were "received in British India" within the definition in section 3, clause (5) of the Income Tax Act(1), and were therefore taxable.

This second appeal is dismissed with costs.

K.R.

APPELLATE CRIMINAL.

Before Mr. Justice Ayling and Mr. Justice Phillips.

1915,
September
28 and 29.

THE CROWN PROSECUTOR, APPELLANT,

v.

GOVINDARAJULU, ACCUSED.*

Madras City Police Act (III of 1838), sec. 75—Place of public resort, meaning of—Madras harbour is a place of public resort—Disorderly behaviour in harbour premises, if an offence under section 75—Public place, meaning of—Right of public to go, if necessary—Madras Port Trust Act (II of 1905), bye-law 22, meaning of.

The Madras harbour is a place of public resort within the terms of section 75 of the Madras City Police Act.

Though the bye-laws passed under the Port Trust Act provide for the prosecution as trespassers of persons who enter the harbour premises without having business there or with the ships lying in the harbour, yet the bye-laws were not intended to exclude respectable members of the public who have been freely allowed to enter the harbour premises.

A legal right of access by the public is not necessary to constitute a public place.

A public place is one where the public go, no matter whether they have a right to go or not.

The Queen v. Wellard (1884) 14 Q.B.D., 63 followed.

Kiston v. Ashe (1859) 1 Q.B., 245 referred to.

APPEAL under section 417 of the Code of Criminal Procedure (Act V of 1908) against the acquittal of the above-named accused by P. NARAYANA MENON, the Third Presidency Magistrate, Georgetown, Madras, in Calendar Case No. 6575 of 1915.

A complaint was preferred in the Presidency Magistrate's Court against the accused in this case under section 75 of the

(1) Act II of 1886.

* Criminal Appeal No. 470 of 1915.