

APPELLATE CIVIL.

Before Mr. Justice Waller and Mr. Justice Krishnan Pandalai.

PENA RINA YENA MANICKAVASAGAM CHETTIAR
(PLAINTIFF), PETITIONER,

1932,
March 3.

v.

THE UNION BOARD OF DEVAKOTTA THROUGH ITS
PRESIDENT O. R. M. M. S. M. MANICKAVASAGAM
CHETTIAR *alias* SEVUGAN CHETTIAR
(DEFENDANT), RESPONDENT.*

Madras Local Boards Act (XIV of 1920), sec. 93—Profession-tax—Person living within area of Union Board and receiving within that area income from business carried on by him outside that area—Profession-tax in respect of such income—Liability for—Person is under, though he had already paid profession-tax thereon in his place of business—Double taxation when not allowed by Act.

Income received by a person living within the area of a Union Board is taxable there under section 93 of the Madras Local Boards Act (XIV of 1920) whether it has been taxed elsewhere or not. The only cases in which double taxation is not allowed by the Act are specified in sub-section (3) of that section.

Held, accordingly, that a person who lived within the area of a Union Board and received within that area income from a business carried on by him at places outside that area was, under section 93, liable to pay profession-tax on that income at his place of residence, even though he had already paid the profession-tax thereon in those places.

PETITIONS under section 115 of Act V of 1908 praying the High Court to revise the decrees of the Court of the Temporary Subordinate Judge of Devakotta in Appeal Suits Nos. 15 and 22 of 1927 (Appeals Nos. 231 and 236 of 1927 on the file of the District Court of Ramnad) preferred against the decrees of the Court of

* Civil Revision Petitions Nos. 382 and 388 of 1932.

MANICKA-
VASAGAN
CHETTIAR
v.
UNION
BOARD,
DEVAKOTTA

the District Munsif of Devakotta in Original Suit No. 48 of 1926 and Original Suit No. 559 of 1924.

T. M. Krishnaswami Ayyar, M. Subbaraya Ayyar
and *K. Ramanathan Chettiar* for petitioner.

T. R. Srinivasan for *K. Bhashyam Ayyangar* for respondent.

Cur. adv. vult.

THE JUDGMENT of the Court was delivered by
WALLER J. WALLER J.—In this case two second appeals were originally filed. It is obvious that the matter involved was of a small cause nature and therefore the appeals do not lie. Two applications were filed to convert the appeals into civil revision petitions which were allowed.

The question involved is as to the collection of profession-tax from the petitioner by the respondent, the Union Board of Devakotta. The petitioner lives within the area of the Union Board, but carries on a money-lending business at Madras, Mannargudi and Nellore. His contention is that, as he has already paid the profession-tax on the income from his business in those places, he is not liable to pay again on it at his place of residence. He pleads, in fact, that income cannot be received as income twice over. That is a contention we have rejected in our judgment in *Perianan Chetti v. Taluk Board, Devakotta*(1). We reject it again for the reasons given in our judgment in that case. His next contention is that it is contrary to the policy of the Madras Local Boards Act to tax a man twice over on his income from the same business. That contention we cannot accept. The relevant section of the Act of 1920 is section 93. The petitioner is a person

“who, within such area . . . is in receipt of an income from money-lending or any source other than houses and lands inside the local limits of the area.”

As regards double taxation all that the Act indicates is that an income derived from a source otherwise taxable within the area must not be taxed there twice. If the assessee derives an income from houses and lands within that area, that is otherwise taxable within the area and must not be taxed again. But let his lands and houses be outside the area and it is obvious that his income from them, if it reaches Devakotta, will be taxable there under section 93 whether it has been taxed elsewhere or not. The only cases in which double taxation is not allowed are specified in subsection (3) and the petitioner's is not one of those cases. Under the present Act—the Act of 1930—the exceptions are much wider and the petitioner would not be taxable at all at Devakotta. In the result, we must dismiss the civil revision petitions with costs, on the finding that the petitioner is taxable. No question as to the amount of the tax was argued before us.

MANICKA-
VASAGAM
CHETTIAR
v.
UNION
BOARD,
DEVAKOTTA.
—
WALLER J.

A.S.V.
