

12 B. 103.

## APPELLATE CIVIL.

Before Sir Charles Sargent, Kt., Chief Justice, Mr. Justice  
Nanabhai Haridas and Mr. Justice Birdwood.

IN RE KARACHI MUNICIPALITY.\* [2nd August, 1887.]

*Stamp Act I of 1879, sch. I, art. 52—Tax—Receipt for money paid as taxes—Municipality, receipt by, for house-tax exceeding twenty rupees—Receipt stamp necessary.*

A receipt by a municipality acknowledging payment of house-tax exceeding twenty rupees, requires a receipt stamp under sch. I, art. 52 of Act I of 1879,

THIS was a reference by H. N. B. Erskine, Esq., Commissioner in Sind, under s. 46 of the Indian Stamp Act I of 1879.

The secretary of the Municipality of Karachi having given a receipt to a tax-payer for a sum of Rs, 56-11-0 paid by him on account of house-tax, the question was raised whether under the [104] Stamp Act I of 1879 such a receipt required a receipt stamp. The matter was laid before the Collector, and by him referred to the Commissioner, who referred the following question to the High Court :—

Whether a receipt granted on behalf of a municipal body acknowledging receipt of monies paid in satisfaction of municipal taxes, the amount paid being over rupees twenty, requires a receipt stamp.

The opinion of the Commissioner was that it should not bear a receipt stamp.

Rav Sahab V. N. Mandlik, for Government.—The receipt is not exempt from stamp duty. The municipality has done something for which it is remunerated, and the payment by the tax-payer is for a consideration. It is not gratuitous or "without consideration," as contemplated by sch. II, art. 15 (b). The case of *In the matter of the Uncovenanted Service Bank* (1), though under the old Stamp Act, applies here.

There was no appearance for the other party.

## OPINION.

PER CURIAM.—We think the question referred to us must be answered in the affirmative. The receipt sent up with the reference is one for the payment of money "the amount of which exceeds twenty rupees." It is, therefore, an instrument requiring a stamp under Act I of 1879, sch. I, art. 52, unless it comes under sch. II, art. 15 (b). That article exempts from stamp duty a receipt for payment of money "without consideration." The exemption was intended apparently to apply to receipts for "voluntary" payments, which in the ordinary legal acceptation of the term are payments without consideration, such as payments made merely in consideration of natural love or affection or mere gifts. The receipt in question is one for payment of house rate due to the municipality under the Act constituting the municipality. The payment is not gratuitous, but one in satisfaction or discharge of a legal obligation imposed by the Act, and in order to relieve the payer from the consequence which would ensue in case of his committing default, and is, therefore, not one without "consideration."

\* Civil Reference, No. 36 of 1886,

(1) 4 C. 829.