

APPELLATE CIVIL.

Before Sir Norman Macleod, Kt., Chief Justice and Mr. Justices Heaton.

1919.

REVANSIDDAPPA BIN PANCHAPPA UMBARJE (ORIGINAL PLAINTIFF),
APPELLANT v. THE SECRETARY OF STATE FOR INDIA IN COUNCIL.
(ORIGINAL DEFENDANT), RESPONDENT.*

September 5.

Indian Income Tax Act (II of 1886), sections 14 and 50—Assessment—Powers of the Collector to increase or alter assessment.

Under section 14 of the Income Tax Act (II of 1886) the Collector has the power after the first assessment to make a fresh assessment if the circumstances of the case require it.

· SECOND appeal against the decision of J. D. Dikshit District Judge, Sholapur, confirming the decree passed by G. K. Kale, Assistant Judge, Sholapur.

The facts of the case are fully stated in their Lordships' judgment.

P. B. Shingne, for the appellant :—The powers of the Income Tax Collector had been exhausted when he had made the assessment once. They could not be exercised again. The language of sections 14 and 50 of the Income Tax Act, 1886, ought to be construed strictly, the Act itself being one, which is calculated and meant to levy tax on the income of subjects. There is no distinct provision in the Act empowering the levy of fresh assessment, whereas the Act provides for the refund of assessment overpaid to the Government. If the Legislature had meant to give such a power, the Act would certainly have contained a provision to that effect. It, therefore, follows that the Legislature did not intend to give such a power. Evidently the Act is silent on the point and sections 14 and 50 should not

* Second Appeal No. 1906 of 1917.

be construed to vest such a power in the Government.

S. S. Patkar, Government Pleader, for the respondent was not called upon.

MACLEOD, C.J.—The facts in this case are not disputed. The plaintiff was assessed for income-tax in the year ending 31st March 1913 in the amount of Rs. 833-5-4. The plaintiff paid that amount on the 18th June 1912. It is admitted that the income of the plaintiff on which the assessment was levied was less than the actual income on which assessment ought to have been levied. When that had been ascertained, a supplementary bill was sent to the plaintiff for the amount of Rs. 488-10-8 on the 7th November 1912, and a direction was made that the plaintiff should pay the amount of the bill by the 4th of January 1913. The plaintiff paid in the amount on the 8th January 1913 under protest. Later on the plaintiff received a notice demanding payment of Rs. 61-1-4 as fine on account of the default in the payment of the income-tax money by the time fixed. The plaintiff paid the fine. He then filed this suit to recover from the Secretary of State for India the said amounts of Rs. 488-10-8 and Rs. 61-1-4 on the ground that the said amounts had been illegally levied together with an amount of Rs. 38-1-6 as interest.

The plaintiff's suit has been dismissed in both Courts. In second appeal the same argument has been adduced before us which did not find favour in the lower Courts, namely, that the powers of the Collector of Income Tax had become exhausted when once he had made an assessment, and that any further assessment for the same year was illegal. Section 14 of the Income Tax Act II of 1886 provides that "The Collector shall, from time to time, determine what persons are chargeable under Part IV, and the amount at which every person so chargeable shall be assessed." We do not think that

1919.

REYAN-
SIDDAPPA
v.
THE
SECRETARY
OF STATE
FOR INDIA.

1919.

REVAN-
SIDDAPPA
v.
THE
SECRETARY
OF STATE
FOR INDIA.

that section means that when the Collector has once in any particular year determined that a certain person is chargeable under Part IV, and has determined the amount at which that person so chargeable should be assessed, his powers against that person for that year are exhausted, in the event of his discovering that the income of that person is somewhat greater than the income upon which the tax was first assessed. The words "from time to time" appear to me to make it perfectly clear that the Collector has the power after the first assessment to make a fresh assessment if the circumstances of the case require it. Even if we had any doubt in our minds as to the meaning of the words of section 14, we have section 50 which provides that "all powers conferred by, or conferrable under, this Act may be exercised from time to time as occasion requires." That decides the question before us without any doubt. In my opinion the appeal fails and must be dismissed with costs.

HEATON J.:—I cannot conceive that when the Legislature passed the Income Tax Act they intended to express what the appellant says they have expressed. What he says is meant by the Act is that when the Income Tax Collector has once made an assessment, he cannot increase or alter it (at a later date), although it may be perfectly clear that the original assessment was made on an underestimate of the income-tax payer's income. If that were so, it would certainly revolutionize my conception of the powers of the Income Tax Collector. Not only can I not conceive that the Legislature intended to enact such a thing as that; but I think the words of sections 14 and 50 of the Act clearly show that the Legislature expressed the opposite intention. I agree therefore, that the appeal should be dismissed with costs.

Decree confirmed.

J. G. R.