REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2773 OF 2012

PARIVAR SEVA SANSTHA ..... APPELLANT

VERSUS

AHMEDABAD MUNICIPAL CORPORATION ..... RESPONDENT

W I T H

CIVIL APPEAL NO. 10694 OF 2016

J U D G M E N T

SANJIV KHANNA, J.

Section 127[1] of the Gujarat Provincial Municipal Corporations Act, 1949 (Bombay Act No. LIX of 1949)[2], as applicable to the State of Gujarat, post the Gujarat Act No. 2 of 2007[3], empowers a Municipal Corporation[4] to impose property tax either under Section 129[5] based on the rateable value of buildings and lands, or under

[1] "**127.** (1) For the purposes of this Act, the Corporation shall impose the following taxes, namely :— (a)Property taxes either under section 129 or under section 141 AA;
[* * * * *]"
[2] For short, 'GPMC Act'. Originally, the Bombay Provincial Municipal Corporations Act, 1949.
[3] The Bombay Provincial Municipal Corporations (Gujarat Amendment and Validation) Act, 2007
[4] Hereinafter referred as the'Corporation'.
[5] "**129.** For the purposes of sub-section (1) of section 127 property taxes shall comprise the following taxes which shall, subject to the exceptions, limitations and conditions hereinafter provided, be levied on buildings and lands in the City:—
[* * * * *]

Section 141AA[6] based on the carpet area of the buildings and lands. The common question of law which arises in the aforementioned appeals is whether the appellants, namely, Parivar Seva Sanstha[7] and Bai Gulab Hargovandas Jagjivandasni Dikarina Dikarina Will Trust[8], are entitled to exemption from levy of general tax in terms of clause (b) to sub-section (1) of Section 132 in cases where the Corporation has exercised the option to levy property tax on carpet area method under Section 141AA of the GPMC Act. An additional issue which arises for consideration in the appeal preferred by Appellant No. 2 Trust relates to the challenge to Rule 8B(4)(i) of the Taxation (Amendment) Rules 2001[9], as applicable to the Ahmedabad Municipal Corporation, on the ground that it is unconstitutional, illegal and arbitrary as it violates the principle of equality enshrined under Article 14 of the Constitution of India.

2. The first issue should not hold us for long as when we assort and pigeonhole sub-sections under Chapter XI of the GPMC Act, it is

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(c) a general tax of not less than twelve per cent. 2 but not more than thirty per cent of their rateable value, which may be levied, if the Corporation so determines on a graduated scale;

[* * * * *]"

[6] "**141AA.** For the purposes of sub-section (1) of section127, property taxes shall comprise the following taxes which shall, subject to exceptions, limitations and conditions hereinafter provided, be levied on buildings and lands in the City:

[* * * * *]

(c) a general tax which may be levied in accordance with the provisions of section 141B, if the Corporation so determines on a graduated scale;

[* * * * *]"

[7] Hereinafter referred to as 'Appellant No.1 Trust'.

[8] Hereinafter referred to as 'Appellant No. 2 Trust'.

[9] Schedule-A, Chapter VIII of the GPMC Act. For short, 'Taxation Rules'.

crystal clear that Sections 129 to 141A of the GPMC Act are grouped together and are applicable when property tax is payable on annual letting value/annual rateable value, whereas provisions from Sections 141AA to 141F of the GPMC Act apply when property tax is payable on the basis of carpet area method. We do not find any good ground and reason to hold that clause (b) to sub-section (1) of Section 132 of the GPMC Act, which grants exemption to buildings and lands or portions thereof solely occupied and used for public worship or for public charitable purposes, would apply when property tax is calculated and is payable on the basis of the carpet area method, which is to be computed and calculated in accordance with the provisions of Section 141AA to Section 141F of the GPMC Act. This aspect has been examined threadbare in the two impugned judgments passed by the Gujarat High Court, with which we agree. However, for the sake of clarity and convenience, we would briefly record our reasons.

3. As noticed above, Chapter XI of the GPMC Act deals with municipal taxation and sub-section (1) to Section 127 states and gives an option to the Corporation to impose property tax either under Section 129, or under Section 141AA of the GPMC Act. Section 129 states that the property tax shall comprise of the taxes, which shall, subject to the exceptions, limitations and conditions thereinafter

provided, be levied on buildings and lands in the city. Section 132[10] of the GPMC Act states that general tax shall be levied in respect of all buildings and lands in the city, the rateable value of which exceeds Rs.600/-, save when a case is covered by exceptions enumerated and listed in clauses (a), (b) and (c) of sub-section (1) to Section 132 of the GPMC Act. Clause (b) to sub-section (1) of Section 132 states that buildings and lands, or portions thereof, solely occupied and used for public worship or for public charitable purposes are exempt from payment of general tax leviable under Section 132 of the GPMC Act. In other words, exemption under clause (b) only applies when general tax is payable under sub-section (1) to Section 132 read with Section 129 of the GPMC Act. Clause (b) to sub-section (1) of Section 132 *per se* and *ex facie*

[10] "**132.** (1) The general tax shall be levied in respect of all buildings and lands in the City, the rateable value of which exceeds six hundred rupees except:

(a) buildings and lands solely used for purposes connected with the disposal of the dead;
(b) buildings and lands or portions thereof solely occupied and used for public worship or for a public charitable purposes;
(c) buildings and lands vesting in the Government used solely for public purposes and not used or intended to be used for purposes of trade or profit or vesting in the Corporation, in respect of which the said tax, if levied, would under the provisions hereinafter contained by primarily leviable from the Government or the Corporation, respectively.

(2) The following buildings and lands or portions thereof shall not be deemed to be solely occupied and used for public worship or for a public charitable purpose within the meaning of clause (b) of sub-section (1), namely:–

(a) buildings or lands or portions thereof in which any trade or business is carried on; and
(b) buildings or lands or portions thereof in respect of which rent is derived whether such rent is or is not applied solely to religious or charitable purposes.

(3) Where any portion of any building or land is exempt from the general tax by reason of its being solely occupied and used for public worship or for a public charitable purpose, such portion shall be deemed to be a separate property for the purpose of municipal taxation."

does not apply to taxes payable in terms of Section 141AA on the basis of the carpet area method.

4. Section 141AA, which is an alternative mode of taxation and an option available to the Corporation to impose tax on the basis of the carpet area method, states that the property taxes shall comprise of the taxes which shall, subject to exceptions, limitations and conditions thereinafter provided, be levied on buildings and lands in the city. Clause (c) to Section 141AA states that a general tax may be levied in accordance with the provisions of Section 141B, if the Corporation so determines, on a graduated scale. Sub-section (1) to Section 141B states that for the purpose of clause (c) to Section 141AA of the GPMC Act, general tax, subject to such exceptions, limitations and conditions thereinafter provided (and not thereinbefore provided), shall be levied annually on the buildings and lands in the city at such rate per square meter of the carpet areas of the buildings and of the areas of land, which thereinafter in the enactment has been referred to as 'the rate of tax', as the Corporation may determine. Sub-section (2) to Section 141B states that for the purpose of levy of tax on buildings in the city under sub-section (1) to Section 141B, the buildings may be classified into 'residential' and 'buildings other than residential' and the Corporation may determine one rate of tax for residential buildings

and the other rate of tax for buildings other than residential. The proviso states that it shall be lawful for the Corporation to determine for residential buildings, the carpet area of which does not exceed 40 square meters, such rate of tax as is lower than the rate of tax determined for residential buildings. Sub-section (3) to Section 141B states that the rate of tax determined under sub-section (1) read with sub-section (2) to Section 141B shall not, in respect of the residential buildings, be less than Rs.10/- per square meter of carpet area and more than Rs.40/- per square meter of carpet area. In respect of buildings other than residential, it shall not be less than Rs.20/- per square meter of carpet area and not more than Rs.80/- per square meter of carpet area. Sub-section (4) to Section 141B states that the Corporation, subject to the Taxation Rules, may increase or decrease or neither increase nor decrease the rate of tax determined under sub-section (1) read with sub-section (2) and sub-section (3) to Section 141B in the case of residential buildings having regard to factors, like, market value of the land where the building is situated, the year of construction of the building, type of the building, the duration of existence of the building, the type of building, and whether the building is self-occupied or tenanted. Similarly, in the case of buildings other than residential, the following factors, namely, market value of the land in the area in

which the building is situated, the duration of existence of the building, the purpose for which the building is used, and whether the building is self-occupied or tenanted are to be taken into consideration.

5. Keeping in view the aforesaid legislative scheme, there is hardly any scope to urge and argue that clause (b) to sub-section (1) of Section 132 of the GPMC Act, which relates to and grants exemption from payment of general tax when rateable value is computable under Section 129 read with Section 132 of the GPMC Act, would apply in cases where property tax is payable by the carpet area method. General tax in terms of clause (c) to Section 141AA has to be computed subject to such exceptions, limitations and conditions provided in Sections 141B or thereinafter. It would be, therefore, correct to hold that provisions from Section 141AA to Section 141F form a complete code when tax has to be computed and paid on the carpet area method, and for such computation, reference cannot be made to the provisions of Sections 129 to 133 which relate to property tax payable on annual rateable value. This position is also made clear by Section 141F, which states that provisions of Section 140 and 141A shall apply in relation to property taxes levied under Section 141AA, subject to modifications specified in Appendix I-A. Therefore, only provisions of Section 140

and Section 141A have been made applicable when property tax is levied and is payable in terms of Section 141AA of the GPMC Act. Clause (b) to sub-section (1) of Section 132 of the GPMC Act is not attracted and cannot be relied upon when property tax is payable under Section 141AA of the GPMC Act.

6. The second aspect has to be also answered against the Appellant No. 2 Trust. Rule 8B of the Taxation Rules, which relates to the increase and decrease of rate of property tax determined for 'buildings other than residential', refers to several factors which result in an increase or decrease, or neither increase nor decrease, in the rate of tax applicable to the carpet area. Sub-rule (1) to Rule 8B states that for the purpose of determining the rate of tax for buildings other than residential, the increase and decrease, or neither increase nor decrease, shall be in terms of sub-rules (2), (3), (4) and (5) to Rule 8B. Sub-rule (2) to Rule 8B relates to the 'location factor', sub-rule (3) to Rule 8B relates to the 'age factor', sub-rule (4) to Rule 8B deals with the 'use factor', and sub-rule (5) to Rule 8B deals with the 'occupancy factor'. The said sub-rules (2) to (5) to Rule 8B specify the rate by the multipliers specified therein. In some cases, as in clause (b) to sub-rule (4) of Rule 8B relating to the 'use factor', it is stated that the designated rate shall be neither increased nor decreased, in respect of buildings used as

specified therein, and in clause (c) to sub-rule (4) to Rule 8B, it is stipulated that the designated rate shall be decreased by a multiplier of 0.0 in respect of buildings used as specified therein. There are illustrations in sub-rule (7) to Rule 8B of the Taxation Rules, which elucidate the manner in which the computation is to be made under Rule 8B of the Taxation Rules. Sub-rule (2) to Rule 8D states that for the purpose of sub-rule (2) to Rule 8B, the Commissioner shall classify the area of the city in which the buildings other than residential buildings are situated into four classes, namely, I, II, III, and IV, having regard to the market value of the lands in the area. The classification so made shall be revised once every four years. Sub-rule (5) to Rule 8D states that for the purpose of sub-rule (4) to Rule 8B, the Commissioner shall have the power to decide which property would fall in the category mentioned in sub-rule (4)(a)(i)(ii)(iii) and (iv) and sub-rule (4)(b) and (c) of Rule 8B of the Taxation Rules. Rule 8C of the Taxation Rules deals with property tax for commercial and industrial units and states that the property tax shall be levied at the rates stipulated therein.

7. Clause (a)(i) to sub-rule (4) of Rule 8B, which relates to commercial properties, reads as under:

> "(a) The designated rate shall be increased by multiplying it –
>
> (i) by **7.0** in respect of the buildings used as under:
>
> Bank, Dispensary, Hospital, Clinic, Maternity home, Laboratory, Central Government office, Post office, Commercial and / or industrial office, Oil companies office, Offices of Corporations, Tuition classes, Typing institutes, godowns and warehouses of the properties falling in the above categories and those buildings which do not fall within any other sub-clause of this clause.
>
> xx xx xx"

8. It may be also relevant to refer to clause (a)(iv) to sub-rule (4) of Rule 8B, which specifically relates to educational and specified social institutions, and reads as under:

> " (a)
>
> xx xx xx
>
> (iv) By **2.0** in respect of the buildings used as under:
>
> Private Nursery (Bal-Mandir), Private and Govt. Schools, Private and Govt. Colleges, University Campus, Museum, Community halls, Social institutes run by public charitable trust (for the welfare of women, old people, deaf, dumb and blind, physically handicapped, mentally retarded people) and non grantable schools.
>
> xx xx xx"

9. It is an undisputed position that Appellant No. 2 Trust was using portions of the property/building as a hospital or a clinic. In view of the aforesaid position, sub-clause (i) to clause (a) to sub-rule (4) of Rule 8B of the Taxation Rules would be applicable and thereby, the

designated rate has to be increased by applying the multiplier of 7.0.

10. The contention of Appellant No. 2 Trust is that their clinic/hospital is being used for charitable purposes as the fee demanded from the patients and users is not the actual market fee. Reference in this regard is made to sub-clause (iv) to clause (a) to sub-rule (4) of Rule 8B of the Taxation Rules, whereby a multiplier of 2.0 is to be applied in respect of social institutes run by a public charitable trust for the welfare of women, old people, deaf, dumb and blind, physically handicapped and mentally retarded people. Our attention has also been drawn to clause (b) to sub-rule 4 of Rule 8B of the Taxation Rules, which states that the designated rate shall neither be increased nor decreased when the building is used as grantable schools run by public charitable trusts, boarding-lodging-hostels run by public charitable trusts, and religious institutions, dharma-shala, ashram, and library.

11. As far as clause (b) to sub-rule (4) of Rule 8B of the Taxation Rules is concerned, the same is clearly distinguishable, and the ‘use factor’ enlisted thereunder is a separate category; the category being grantable schools run by public charitable trusts, boarding-lodging-hostels run by public charitable trusts, and religious

institutions, dharma-shala, ashram, and library. Appellant No.2 Trust cannot claim any parity with the aforesaid 'use factors', even though the hospital/clinic run by them are run by public charitable trusts. Sub-clause (i) to clause (a) to sub-rule (4) of Rule 8B of the Taxation Rules enlists all buildings used as hospitals, dispensaries, clinics, maternity homes, etc. They have all been classified under one head. No distinction is made whether they are run by public charitable trusts or not. The legislature is entitled to club and treat the buildings as per the 'use factor' alike without falling foul of the right to equality, as enshrined under Article 14 of the Constitution of India.

12. Recently, this Court in ***Manish Kumar*** v. ***Union of India and Others***[11], has exhaustively referred to the case law on the subject of reasonable classification under Article 14 of the Constitution of India *vide* paragraphs 210 to 230 to observe that Article 14 frowns upon what constitutes hostile discrimination but does not bar classification which is reasonable. To answer whether a classification is reasonable, one must look beyond the classification to the purpose of law. A reasonable classification is one which includes all persons who are similarly situated with respect to the

[11] (2021) 5 SCC 1.

purpose of law. The purpose of law may be either elimination of public mischief or achievement of some positive public good. Reference in this regard was made to the decision in ***State of Gujarat and Another*** v. ***Shri Ambica Mills Ltd., Ahmedabad and Another***[12], which elucidates and explains the distinction between under-inclusive and over-inclusive classification. A classification is under-inclusive when the State benefits or burdens persons in a manner that furthers a legitimate purpose but does not confer the same benefit or place the same burden on others who are similarly situated. An over-inclusive classification is one, where it imposes a burden on a wider range of individuals who are included in that class of those attended with mischief at which the law aims. Piecemeal approach to the general problem is permitted in under-inclusive classification on the ground that legislative dealing with problems of classification is usually an experimental matter. It is impossible to tell how successful a particular approach may be, what dislocations might occur, what evasions might develop, and what new evils might be generated in the attempt. Administrative expedients must be forged and tested. This decision also propounds that laws regulating economic activity should be viewed differently from the laws which touch or concern freedom of speech

[12] (1974) 4 SCC 656.

or religion, voting, procreation, rights with respect to criminal procedure, etc. Judicial deference should be given to legislature in the field of economic regulation viz. the constitutional requirement and need to vigorously enforce equal protection clause to strike down legislative action in the area of fundamental human rights. Equally, this Court in ***State of Jammu and Kashmir*** v. ***Shri Triloki Nath Kosa and Others***[13], has held that there is always a presumption in favour of the constitutionality of an enactment and the burden is upon the person who attacks it to show that there has been a clear transgression of constitutional principles. A provision cannot be struck down as discriminatory on any *a priori* reasoning. The question of classification is primarily for legislative judgment. Power to classify being extremely broad and based upon consideration of executive pragmatism, the judicature cannot rush in where the legislature varily treads. Generally, the two-fold test applied by the courts is (i) the classification must be founded on an *intelligible differentia*, and (ii) the *differentia* must have a rational relation with the object sought to be achieved by the legislature in question. If the object itself is not discriminatory, it should be held that there is a reasonable classification because it has a rational relation to the object sought to be achieved.

[13] (1974) 1 SCC 19.

13. This Court in the case of ***Municipal Corporation of Delhi*** v. ***Children Book Trust***[14], had the occasion to examine the provisions of Section 115(4) of the Delhi Municipal Corporation Act, 1957, a provision which had granted exemption to land and buildings or portions thereof used for charitable purpose from payment of municipal general tax by charitable institutions. In the context of the legislation, a distinction was drawn between charitable purpose under Section 115(4), and as then defined under the Income Tax Act, 1961, to observe that the test under the municipal act is both qualitative and quantitative. In other words, voluntary contributions or support as a mean of sustenance or maintenance should be satisfied before the assessee was granted exemption on the ground that the building was being used for charitable purposes. In other words, where an assessee is making systematic profits, even though that profit is utilised for charitable purposes, the assessee cannot claim exemption. Thus, where the assessee could survive without receiving voluntary contributions, it would be liable to pay general property tax. The term 'contribution', for the purpose of the statute, was interpreted as something that cannot amount to compulsive donation. The underlying reasoning

[14] (1992) 3 SCC 390.

behind the said judgment is to ensure that such institutions take the burden and provide for municipal revenue, which is necessary and required for local needs. In a democratic set-up, a municipality requires the proceeds from the taxes for their own administration and therefore, there is a need to leave to these municipalities the power to impose and collect taxes.

14. The Statement of Objects and Reasons for Amendment Act No. 3 of 1999, while enacting the option to levy property tax by applying the carpet area method, records that the levy of property tax did not provide sufficient revenue to the Corporation to meet the escalating cost concerns, particularly in view of rapid urbanisation in the cities. It is in this background it was necessary to provide alternative tax on buildings and lands based upon the carpet area method. However, at the same time, the legislation has provided the minimum and maximum rate of tax. The power is given to the Corporation to increase or decrease the tax for residential and non-residential properties according to factors like location, age and type of buildings.

15. Another aspect which we cannot ignore is the need to have clarity and uniformity in the rate of tax. Discretion or variation of the rate

of tax based upon ascertainment of details etc., always leads to litigation.

16. This Court in ***State of Bihar and Others*** v. ***Sachchidanand Kishore Prasad Sinha and Others***[15], had set aside the judgment of the Patna High Court striking down the assessment rules as being violative of Article 14 of the Constitution of India by relying upon the earlier decision in ***Twyford Tea Co. Ltd. and Another*** v. ***The State of Kerala and Another***[16], wherein the Constitutional Bench by majority had held that the legislature must have a wide range of selection and freedom in appraisal not only in the objects of taxation, and the manner of taxation, but also in the determination of the rate or rates applicable. A person, to succeed on the ground of discrimination, must show hostile unequal treatment. This is more so when uniform taxes are levied. In this connection it was stressed:

> "15….This indicates a wide range of selection and freedom in appraisal not only in the objects of taxation and the manner of taxation but also in the determination of the rate or rates applicable.
>
> 16.…The burden of proving discrimination is always heavy and heavier still when a taxing statute is under attack. … The burden is on a person complaining of discrimination. The burden is proving *not* possible 'inequality' but hostile

[15] (1995) 3 SCC 86.
[16] (1970) 1 SCC 189.

> 'unequal' treatment. This is more so when uniform taxes are levied."

This judgment in ***Sachchidanand Kishore Prasad Sinha*** (supra) also refers to the earlier decision in ***R.K. Garg*** v. ***Union of India and Others***[17], that the laws relating to economic activities should be viewed with greater latitude than laws touching civil rights. The economic mechanism is highly sensitive and complex, laws are not abstract propositions, do not relate to abstract units, are not to be measured by abstract symmetry and exact wisdom and nice adaption of remedy are not always possible. Every legislation, especially in economic matters, is essentially empiric, and it is based on experimentation or what one may call the trial and error method. It may not provide for all possible situations or anticipate all possible abuses. There can be crudities or inequities in complicated experimental economic legislation but on that account alone it cannot be struck down as invalid. In the context of the impugned legislation, it was observed that the simplistic approach of classification adopted in the said case cannot be rejected on the ground that it is possible to evolve a classification to cater to several distinctions. More importantly, and for the present context, it was observed in ***Sachchidanand Kishore***

[17] (1981) 4 SCC 675.

Prasad Sinha (supra) that even if it is so evolved, not only would it be too complex and elaborate, it would leave too much discretion to the assessing authorities and thereby eliminate one of the main objectives of the rules therein. One of the objects of the rules was to withdraw discretion which can result in harassment and constant threats of revision. These observations are of relevance because, in the present case, all hospitals, dispensaries, clinics, maternity homes etc., have been classified under one head, and thereby the levy of taxation in such cases simplifies and is uniform. Discretion is eliminated. Examination of facts, etc. is not required. We do not, therefore, think that the classification made *vide* sub-clause (i) to clause (a) to sub-rule (4) of Rule 8B of the Taxation Rules is discriminatory and violative of Article 14 of the Constitution of India. The object and purpose of this classification is to avoid litigation and complexities which may arise in case there is a distinct and separate taxation of hospitals, clinics, maternity homes, etc., stated and claimed to be run for charitable purpose.

17. Sub-clause (iv) to clause (a) to sub-rule (4) of Rule 8B of the Taxation Rules applies to educational and social institutions run by public charitable trusts for the welfare of women, old people, deaf, dumb, blind, physically handicapped or mentally retarded people. These are separate categories and cannot be confused and treated

similarly and at par with hospitals, clinics, maternity homes, etc, as elucidated in sub-clause (i) to clause (a) to sub-rule (4) of Rule 8B of the Taxation Rules.

18. At this stage, we may refer to the case law relied upon by the counsel for the appellant and distinguish the same. In ***State of Kerala*** v. ***Haji K. Haji K. Kutty Naha and Others Etc.***[18], a uniform rate of general/property tax was sought to be imposed based entirely on the total floor area regardless of the age, the location and the use of the building. Different tax slabs were provided where the total floor area would be 1000-2000 sq. ft., 2000-4000 sq. ft. and so on. It is in this background that the classification was struck down as being arbitrary as it had imposed a uniform tax slab regardless of the class to which the building belongs, the nature of construction, the purpose for which it is used, capacity for profitable use, and relevant circumstances which have a bearing on the matters of taxation. The decision in ***Deputy Commissioner of Income Tax and Another*** v. ***Pepsi Foods Limited***[19], had upheld the striking down of the third proviso to Section 254(2-A) of the Income Tax Act, 1961 on the ground that it was arbitrary and offended Article 14 of the Constitution of India as assessees who

[18] 1969 1 SCR 645.
[19] (2021) 7 SCC 413.

were not even responsible for the delay in the decision before the tribunal were clubbed with those assessees responsible for delaying the proceedings. In this context, it was observed that Article 14 of the Constitution of India applies to tax legislation, *albeit* greater freedom in the joints must be allowed by the courts in adjudging the constitutional validity of the same. However, where tax is imposed deliberately with the object of differentiating between persons similarly situated, such tax is liable to be struck down. Similarly, in ***State of Uttar Pradesh and Others*** v. ***Deepak Fertilizers & Petrochemical Corporation Ltd.***[20], a retrospective notification withdrawing exemption in respect of NPK 23:23:0 fertilizer, while granting it to other NPK fertilizers, was struck down as without there being any rational basis. The judgment specifically records that the State was not able to satisfy that there was a good reason for introducing a fresh set of notifications for one period and another set of notifications for another period, either by amending the notification or introducing a new notification to withdraw the benefit given earlier. In ***Union of India and Others*** v. ***N.S. Rathnam and Sons***[21], noticing that the exemption was denied to those who had paid customs duty under an alternative provision,

[20] (2007) 10 SCC 342.
[21] (2015) 10 SCC 681.

albeit at a lower rate, this Court, to ensure parity, had directed that the assessees would be entitled to the benefit of the exemption subject to the condition that they shall pay the differential amount of their duty.

19. We may, in the end, refer to another decision of a Constitutional Bench of this Court which supports our reasoning. In the case of ***Ganga Sugar Corporation Ltd.*** v. ***State of Uttar Pradesh and Others***[22], the levy, which was uniform on all sugarcane purchases, was attacked as *ultra vires* on the ground that the sucrose content of various consignments could vary from place to place, the variation being of the order of 8% to 10%, and yet a uniform levy by weight was sanctioned by the impugned Act therein. Rejecting the contention, it was observed by this Court that practical considerations of the administration, traditional practices in the trade, other economic pros and cons enter the verdict, but after a judicial generosity is extended to the legislative wisdom, if there is writ on the statute perversity, 'madness' in the method or gross disparity, judicial credulity may snap, and the measure may meet with its funeral. Otherwise, the benefit of uniformity in the classification of taxation should not be struck down on the

[22] (1980) 1 SCC 223.

application of Article 14 of the Constitution of India. It must be viewed liberally and not meticulously. Thus, in the said case, the contention that the price of the sugarcane should be the permissible criteria for purchase tax was rejected. It was observed that marginal difference of the sucrose content being too inconsequential would not build a case for discrimination. We have referred to this decision in the context that we have also taken into account the total quantum of tax being paid in terms of the method of calculation as prescribed by sub-clause (iv) to clause (a) to sub-rule (4) of Rule 8B of the Taxation Rules. The bills raised are not substantial so as to warrant any interference.[23]

20. However, we are also conscious that in some cases it is possible that small organisations performing purely charitable work, which meets both qualitative and quantitative criteria, may have to curtail the charitable work in case the municipal taxes increase or are enhanced. We would, in this context, like to reproduce the observations of this Court in the case of ***Sachchidanand Kishore Prasad Sinha*** (supra), which are as under:

[23] Assessment Bill for 2001-2002 dated 05.01.2002 of Rs. 5.92/- per sq. ft.
Assessment Bill for 2002-2003 dated 27.08.2002 of Rs. 5.94/- per sq. ft.
Assessment Bill for 2003-2004 dated 27.04.2003 of Rs. 6.37/- per sq. ft.
Assessment Bill for 2004-2005 dated 21.05.2004 of Rs. 6.46/- per sq. ft.
Assessment Bill for 2005-2006 dated 27.05.2005 of Rs. 6.44/- per sq. ft.
Assessment Bill for 2006-2007 dated 14.06.2006 of Rs. 6.60/- per sq. ft.

> "**14.** It is one thing to suggest that the rule-making authority may consider making a further distinction on the lines suggested and an altogether different thing to strike down the rule itself on the ground of inadequate classification..."

The aforesaid observation has been reproduced of abundant caution and, we clarify, does not have any application in the factual background of the present case.

21. Recording the aforesaid, we do not find any merit in the present appeals and the same are dismissed. However, in light of the facts of the case, there will be no order as to costs.

.....J.
(SANJIV KHANNA)

.....J.
(J.K. MAHESHWARI)

NEW DELHI;
NOVEMBER 24, 2022.