

M/s Sandika Private Limited Vs The Municipal Corporation Ludhiana

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Feb. 2, 1982

Hon'ble Judges: G.C. Mital, J

Bench: Single Bench

Advocate: R.S. Bindra, for the Appellant; Ashok Kumar with Mr. Des Raj, for the Respondent

Final Decision: Dismissed

Judgement

G.C. Mital, J.

This order will dispose of R.S.A. Nos. 2443 and 2445 of 1981, as similar questions arise therein.

2. The only point which arises for consideration is whether the invoice price alone would determine the octroi payable to Municipal Corporation,

Ludhiana or the sale price of liquor paid within the municipal limits of Municipal Corporation, Ludhiana would include the invoice price plus excise

duty and fees, if any. This matter has been settled by a Division Bench of this Court in M/S Mohan Meaken Breweries Ltd v. Municipal

Corporation of Jullundur City AIR 1970 P&H. 142 wherein it is held that the octroi would be payable on the invoice price plus exercise duty and

fees etc. It is true that J.V. Gupta J. in M/s Sham Lal & Company v. The State of Punjab 1980 R.L.R. 110 had given a decision to the contrary in

view of a Single Bench decision of Delhi High Court in Jai Dayal v. The Municipal Committee, Nahan (1971)73 P.L.R.D. 138. But when it was

brought to the notice of J.V. Gupta J. in M/s Madan Lal Rai Krishan v. The Municipal Committee, Patiala R.S.A. 1658 of 1969, that there was a

Division Bench judgment of this Court taking a view contrary to the Delhi High Court, by judgment dated 17. 12. 1980, he did not agree with his

earlier view in view of the Division Bench decision. He observed in the order that the Division Bench judgment was not brought to his notice on the

earlier occasion. The learned Judge also took notice of the fact that by notification published on 14. 12 1979, explanation was added to item 12(2)

of Chapter V of the Municipal Account Code (Octroi) and, therefore, by virtue of that amended provision no doubt was left that the octroi was

payable on the sale price of liquor plus excise duty and the fees etc. In both these appeals, the liquor vend owners have challenged the levy of

octroi on the ground that octroi has been charged on invoice price plus excise duty and fees ; whereas it should have been charged only on the

invoice price. In view of the Division Bench Judgment of this Court cited above, there is no merit in these appeals.

3. Shri R.S. Bindra had vehemently contended that the Division Bench decision does not lay down correctly. Some of the points raised by him,

which may be noticed, are that item 17 of Chapter V of the Municipal Account Code (Octroi) was considered by the Division Ben-but not item

No 12. He further urges that the amendment made in the aforesaid Code by notification dated 14. 12. 1979 would apply only to the Municipal

Committees and not to Municipal Corporations inasmuch as Municipal Corporations were created for the towns of Ludhiana, Jullundur and

Amritsar by Municipal Corporation Act, 1076, which came into force on 17. 3.1977. While the laws in force under the Punjab Municipal Act, at

the commencement of the Municipal Corporation Act, 1076, would be applicable to the area now covered by the Corporations, but if any change,

amendment or new provision had to be made for the Corporations, that could be done only by making amendment in the Municipal Corporation

Act, 1076, and any amendment made after the coming into force of that Act, under the Punjab Municipal Act, would not ipso facto apply to the

Corporations and, therefore, he urges that the notification dated 14. 12. 1970 published under the Punjab Municipal Act and the Code framed

there under, cannot be applied to the Municipal Corporations.

4. Whether there is merit in the second point or not, would be wholly insignificant because the Division Bench considered the matter before the

amendment published on 14. 12. 1979. Therefore, under unamended provisions, the levy of octroi on the basis of invoice price plus excisee duty

and fees, was perfectly justified and cannot be interfered with in the second appeal.

5. For the reasons recorded above, both the appeals are dismissed but with no order as to costs.