

(2000) 12 P&H CK 0171

High Court Of Punjab And Haryana At Chandigarh

Case No: C.W.P. No"s. 6904 and 6948 of 2000

Chandigarh Distillers and
Bottlers Ltd. and Patiala
Distilleries and Manufacturers
Ltd.

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision: Dec. 13, 2000

Acts Referred:

- Constitution of India, 1950 - Article 226
- Haryana Liquor Licence Rules, 1970 - Rule 38(15)
- Income Tax Act, 1961 - Section 206(1), 206C, 226(3), 44AC, 44AC(1)

Citation: (2002) 253 ITR 205

Hon'ble Judges: Nirmal Singh, J; G.S. Singhvi, J

Bench: Division Bench

Advocate: A.K. Mittal, Mohan Jain and Rakesh Aggarwal, for the Appellant; R.P. Sawhney and Rajesh Bindal, for the Respondent

Final Decision: Allowed

Judgement

G.S. Singhvi, J.

The petitioners are engaged in the business of manufacturing and sale of liquor. They have invoked the jurisdiction of this court under article 226 of the Constitution of India for quashing the demands created by respondent No. 3-income tax Officer, Ward-5, Patiala, u/s 206C of the Income Tax Act, 1961 (for short, "the 1961 Act"), and the notices issued to their bankers u/s 226(3) of the said Act to pay the money for satisfying the dues of tax.

2. At the outset, we deem it proper to notice the statutory provisions and decisions which have a bearing on the adjudication of the issue raised by the petitioners. By virtue of the Finance Act, 1988, Sections 44AC and 206C were inserted in the 1961

Act for computing the profits and gains from the business of trade in certain goods, including liquor, with effect from April 1, 1989, and for collection of tax at source with effect from June 1, 1988. This was followed by the Direct Tax Laws (Amendment) Act, 1989, vide which the following proviso was inserted in Section 44AC :

"Provided that nothing contained in this clause shall apply to a buyer where the goods are not obtained by him by way of auction and where the sale price of such goods to be sold by the buyer is fixed by or under any State Act."

3. In view of these provisions, the distilleries started making deductions of tax on the transactions involving sale of liquor to the holders of L-13 licences granted under the Punjab Excise Act, 1914 (for short, "the 1914 Act"), read with the Punjab Liquor Licence Rules, 1956 (for short "the Rules"). This was challenged by the licensees by filing writ petitions in various High Courts, including this court and the High Court of Himachal Pradesh. In [Gian Chand Ashok Kumar and Company and Others Vs. Union of India \(UOI\) and Others](#), a Division Bench of the Himachal Pradesh High Court held that L-13 licensees fall within the proviso to Section 44AC(I)(a) of the 1961 Act and, therefore, the provisions of Section 206C and other parts of Section 44AC(1) cannot be applied to them. In [K.K. Mittal and Co. Vs. Union of India \(UOI\) and Others](#), this court followed the decision of the [Gian Chand Ashok Kumar and Company and Others Vs. Union of India \(UOI\) and Others](#), and held that L-13 licensees were not liable to pay tax at the stage of purchase of country liquor. This court further held that persons holding L-14 licences are also entitled to the benefit of a proviso added to Section 44AC(I)(a) of the 1961 Act. The petition for special leave to appeal filed by the Union of India and others against the order passed by the Division Bench of this court was dismissed by the Supreme Court.

4. Thereafter, by virtue of the Finance Act, 1992, Section 44AC of the 1961 Act was deleted and its substantial portion was incorporated in Section 206C, making it a charging as well as collecting section. The relevant extract of Section 206C (as it stands after the amendment of 1992) reads as under :

"206C. Profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc. -- (1) Every person, being a seller shall, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table below, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as Income Tax :

Table

Sl. No.	Nature of goods	Percentage
(1)	(2)	(3)
(i)	Alcoholic liquor for human consumption (other than Indian made foreign liquor) and tendu leaves	Ten per cent.
(ii)	Timber obtained under, a forest lease	Fifteen per cent.
(iii)	Timber obtained by any mode other than under a forest lease	Five per cent.
(iv)	Any other forest produce not being timber or tendu leaves	Fifteen per cent.

Explanation.--for the purposes of this section,--

(a) "buyer" means a person who obtains in any sale, by way of auction, tender or any other mode, goods of the nature specified in the Table in Subsection (1) or the right to receive any such goods but does not include,--

(i) a public sector company,

(ii) a buyer in the further sale of such goods obtained in pursuance of such sale, or

(iii) a buyer where the goods are not obtained by him by way of auction and where the sale price of such goods to be sold by the buyer is fixed by or under any State Act;

(b) "seller" means the Central Government, a State Government or any local authority or corporation or authority established by or under a Central, State or Provincial Act, or any company or firm or co-operative society."

5. In the light of the amended Section 206C, the petitioners and other distilleries started deducting Income Tax at source from L-13 licensees, who challenged the same by filing petitions under Article 226 of the Constitution of India, which were allowed by a Division Bench on September 8, 1992-- [K.K. Mittal and Co. Vs. Union of India \(UOI\) and Others](#), Some of the observations made in that judgment are reproduced below (headnote) :

"A perusal of the amendment of Section 206C of the Income Tax Act, 1961, by the Finance Act, 1992, shows that there was no significant change from the provision as it existed in Sections 44AC and 206C before their amendment. Section 44AC stands repealed but its substantive portion has been included in Section 206C. That being the position, the ratio of the decision in [K.K. Mittal and Co. Vs. Union of India \(UOI\) and Others](#), is applicable even after the amendment.

L-13 licences are granted on a fixed licence fee for the relevant year and such licences are not granted on auction. On grant of such licences, the licensees are supposed to purchase liquor from the distilleries at the price fixed by the Financial Commissioner. Likewise, they are supposed to sell the liquor at the price fixed by the Financial Commissioner from time to time. This position is further clarified by Rule 38(15) of the Haryana Liquor Licence Rules, 1970. L-13 licensees appear to be a class which, in view of the existing system of the transaction of sale of country liquor, cannot be considered to be a class evading payment of tax. Hence, in respect of L-13 licensees Income Tax cannot be deducted from sales made to them by distilleries u/s 206C."

6. The SLP filed by the Union of India and others against that order were dismissed by the Supreme Court on November 1, 1993.

7. The question as to whether the holder of an L-13 licence can deduct tax at source u/s 206C of the 1961 Act from an L-14 licensee came up for consideration before a Division Bench of this court in [Satya Pal Amrik Singh and Co. and Others Vs. Union of India \(UOI\) and Others](#). After considering the scheme of Section 206C of the 1961 Act and the relevant rules, this court held as under (page 663) :

"Rule 38(15)(g) of the Rules of 1956 imposes a restriction on the sale of country spirit by L-13 licensees at rates other than those fixed by the Excise Commissioner. In terms of the conditions of auction, L-14 licensees are bound to purchase liquor from L-13 licensees. In these cases, the petitioners do not have freedom to obtain their supply from any other source other than the wholesale vend of CITCO. Thus, the sale of liquor by CITCO to L-14 licensees like the petitioners has to be treated as a subsequent sale. Vide circular dated September 15, 1993, the Central Board of Direct Taxes has clarified that Section 206C(1) of the Act in relation to the buyer will not apply to public sector undertakings/companies and to any other buyer who obtains goods at a subsequent sale of such goods and the provisions of Section 206C will apply only at the time of first sale. Admittedly, CITCO is a public sector undertaking and, therefore, the provisions of Section 206C are not attracted in its case. If this position of CITCO is taken into consideration in the light of our finding that the sale of liquor by CITCO to L-14 licensees falls within the expression "subsequent sale" as used in paragraph 5 of the circular issued by the Central Board of Direct Taxes, there can be no escape from the conclusion that the deduction of tax at source from the petitioners is illegal and without jurisdiction. As a logical corollary, it has to be held that the provisions of Section 206C as amended by the Finance Act, 1992, are

not available to the Income Tax Department to compel CITCO to deduct Income Tax at source from the petitioners."

8. In [Naresh Kumar and Co. and Others Vs. Union of India \(UOI\) and Others](#), another Division Bench considered the question as to whether the holder of an L-14A licence can be treated as a "buyer" and the Excise Department of the State as a "seller" within the meaning of Section 206C of the Act and as such the latter is required to collect ten per cent, of the licence fee as Income Tax. After examining the issue in detail, the Division Bench has held as under (page 764):

"The word "buyer" has been defined in the Explanation to mean a person who obtains in any sale, by way of auction, tender or any other mode, goods of the nature specified in the Table or the right to receive any such goods but does not include a buyer in the further sale of goods obtained in pursuance of such sale. The petitioners before us who are L-14 licensees do obtain country liquor by purchase and on the basis of the licences obtained by them they get the right to receive those goods and are, therefore, covered by the first part of the definition of buyer as given in Clause (a) of the Explanation. There are then three clauses according to which certain classes of persons are excluded from the concept of buyers as defined in Section 206C with the result that persons who fall in any of these three clauses will not be covered by the definition even if they are covered by the first part. A buyer in the further sale of such goods is one of the classes of persons who stand excluded from the definition by virtue of Sub-clause (ii) of Clause (a) of the Explanation being the subsequent buyers. The petitioners before us undoubtedly purchased country liquor from the wholesalers who are L-13 licensees and the latter had purchased the same from the distilleries (manufacturers). The sale in favour of the petitioners is thus a second sale covered by the exclusion Sub-clause (ii) of Clause (a) of the Explanation. In this view of the matter, the petitioners are not buyers within the meaning of Section 206C of the Act. . . ."

9. The argument urged on behalf of the Department that the petitioners were covered by the first part of the Explanation appearing below Section 206C was rejected by the court with the following observations (page 765) :

"It was strenuously contended by Shri Sawhney, on behalf of the Department, (hat the Explanation talks of two types of buyers, (i) those who purchase goods and deal with them, (ii) those who acquire the right to receive the goods and according to learned counsel the exclusion referred to in Clause (a) of the Explanation refers only to (i), i.e., only those buyers who purchase goods and deal with them and therefore the petitioners who have acquired the right to receive the goods on the basis of the licences issued to them by the Excise Department are buyers within the meaning of Clause (a) of the Explanation and are not excluded- Learned counsel has placed reliance on a judgment of the Patna High Court in [State of Bihar and Another Vs. Commissioner of Income Tax and Others](#) . We are unable to accept this contention of learned counsel for the Department. The language of Clause (a) in the

Explanation is clear and unambiguous and the exclusions referred to therein do exclude from the main provision, the subsequent purchasers of country liquor. It is not disputed by the Department that the petitioners on the basis of their L-14A licences purchased the country liquor from the wholesalers who are L-13 licensees."

10. The court examined the matter from two other angles and ruled in favour of the petitioners by making the following observations (page 766) :

"Before concluding on this aspect, we may also refer to Circular No. 660 (see [1993] 204 ITR 19), dated September 15, 1993, issued by the Central Board of Direct Taxes wherein it has been made clear that the provisions of Sub-section (1) of Section 206C of the Act in relation to a buyer will not apply to a public sector company and to any other buyer who obtains the said goods at a second or subsequent sale of such goods. The Board has clarified that the provisions would apply only at the point of the first sale of such goods. The petitioners who buy country liquor at a second or subsequent sale thus stand excluded. It must, therefore, be held that they are buyers in further sale of those goods and are excluded by Sub-clause (ii) of Clause (a) of the Explanation, the first sale being the sale made by the distilleries (manufacturers) to the wholesalers.

There is yet another aspect of the matter. The Deputy Commissioner of Income Tax has held that the Excise and Taxation Commissioner who issued L-14A licences to the petitioners in an open auction is the seller within the meaning of Section 206C of the Act and was therefore required to collect ten per cent, of the licence fee as Income Tax at source. We are of the opinion that this view of the Income Tax Department is wholly misconceived and not warranted from the provisions of Section 206C of the Act. A seller is required to collect ten per cent, of the amount as Income Tax at source only on the sale of goods of the nature specified in column No. 2 of the Table. What the Excise and Taxation Commissioner can be said to have sold to the petitioner are the L-14A licences on the basis of which they can carry on their business of selling country liquor in retail. He has not sold any goods of the nature specified in column No. 2 of the Table. He has not sold country liquor. The licence only gives a right to the petitioner to receive the goods of the nature specified in column No. 2 of the Table and the requirement of Sub-section (1) of Section 206C is that ten per cent, of the amount payable is to be collected by the seller from the buyer of the goods and not from the buyer of the right to receive the goods. Since no goods have been sold by the Excise and Taxation Commissioner, he cannot be described as a seller within the meaning of the Act.

We may now examine the matter from another angle as well. Sub-section (1) of Section 206C of the Act requires that every seller of alcoholic liquor for human consumption other than Indian made foreign liquor shall collect from the buyer 10 per cent, of the amount payable at the time of debiting the amount to the account of the buyer or at the time of receipt of any such amount in cash or by cheque or draft or by any other mode. It is thus clear that what is collectible is 10 per cent, of

the amount payable. The amount payable is that amount which is payable at the time of debiting the amount to the account of the buyer or at the time of receiving money from him in cash or by cheque or by draft or by any other mode for the goods sold to him. That amount, in our opinion, is the purchase price which the buyer pays to the seller for the goods sold and in the cases before us the amount which the petitioners pay to the wholesaler after they have obtained a permit from the Excise Department by depositing the excise duty. The amount payable would only be the price which the buyer will pay to the seller. It cannot by any stretch of reasoning include licence fee which the buyer has to pay for the licence that he has obtained. The payment of this fee is wholly unrelated to the amount to be paid at the time of purchasing country liquor from the wholesalers. Even if an L-14A licensee does not purchase any country liquor, the licence fee has nevertheless to be paid by him to the Department and it will be preposterous to suggest that Income Tax should still be recovered. The licence fee is therefore not a part of the amount payable at the time of the sale of country liquor. In this view of the matter, we have no hesitation in holding that the amount payable in Section 206C of the Act does not include the licence fee which has to be paid by the licensee to the State Government. The Deputy Commissioner of Income Tax was in error in including the licence fee in the amount payable u/s 206C of the Act and the Excise and Taxation Commissioner was not required to collect ten per cent, of the licence fee from the L-14A licensees like the petitioners and it follows that the petitioners were not liable to deposit that amount."

11. Notwithstanding the aforementioned decisions respondent No. 3 issued notices dated August 23, 1999, and August 24, 1999, to the petitioners and called upon them to supply the details of the sales made to L-13 and L-14 licensees during the year 1998-99. In its reply, the petitioner--Chandigarh Distillers and Bottlers, averred that it could not deduct tax from the licensees in view of the judgment of the High Court in [K.K. Mittal and Co. Vs. Union of India \(UOI\) and Others](#), and [Satya Pal Amrik Singh and Co. and Others Vs. Union of India \(UOI\) and Others](#). The licensees challenged the action initiated by respondent No. 3 by filing C.W.P. No. 17291 of 1999 (Jaspal v. Union of India). By an order dated December 14, 1999, this court stayed the operation of the notices impugned in that petition, which was ultimately disposed of as infructuous on May 8, 2000, because the period of licence had expired.

12. Soon after the disposal of C.W.P. No. 17291 of 1999, respondent No. 3 issued notices dated May 9, 2000, to the petitioners and called upon them to collect tax from the licensees u/s 206C of the 1961 Act and also file prescribed returns. The petitioners filed detailed replies to the said notices reiterating their earlier stand that in view of the judgments of the High Court, they were not in a position to deduct the tax. The petitioner--Chandigarh Distillers and Bottlers, also furnished a statement containing the particulars of sale of country liquor to L-13 licensees. However, without considering the points raised by the petitioners, respondent No. 3

issued the impugned demand notices. Simultaneously, he issued notices to the bankers of the petitioners u/s 226(3) for payment of the amount of tax from their accounts.

13. The petitioners have challenged the impugned demands/notices on the ground that the same are ultra vires Section 206C of the 1961 Act and their fundamental right to carry on trade and business without any restriction. They have averred that L-13 licensees, to whom they had sold liquor, and L-14 and L-14A licensees, who purchased liquor from L-13 licensees do not fall within the meaning of the term "buyer" used in the Explanation appended below Section 206C and, therefore, deduction at source cannot be made in respect of the goods sold to such licensees. In support of this plea, they have relied on the two judgments in the cases of [K.K. Mittal and Co. Vs. Union of India \(UOI\) and Others](#), and [K.K. Mittal and Co. Vs. Union of India \(UOI\) and Others](#), as well as the judgment of the Division Bench in [Satya Pal Amrik Singh and Co. and Others Vs. Union of India \(UOI\) and Others](#).

14. In the written statement filed on behalf of respondents Nos. 1 and 2, it has been averred that the constitutional validity of Section 206C has been upheld by the Supreme Court in [Union of India and another etc. etc. Vs. A. Sanyasi Rao and other etc. etc.](#), and, therefore, deduction of tax at source and the sale made to L-13 and L-14 licensees cannot be questioned. They have relied on the decision of a Division Bench of the Himachal Pradesh High Court in [Rudra and Company, Madan Lal and Company and Raj Kumar and Company Vs. Union of India \(UOI\) and Others](#), and have averred that the law laid down in the case of [Gian Chand Ashok Kumar and Company and Others Vs. Union of India \(UOI\) and Others](#), relied upon by the Division Benches of this court in the two cases of [K.K. Mittal and Co. Vs. Union of India \(UOI\) and Others](#), and [K.K. Mittal and Co. Vs. Union of India \(UOI\) and Others](#), cannot be treated as good law. The respondents have further averred that an L-13 licence can be granted only to the holder of an L-14 licence and, therefore, such licensee does not fall under the exception clause contained in the Explanation appended to Section 206C of the 1961 Act. They have defended the action taken by respondent No. 3 for making recovery of the amount of tax from the bankers by contending that after the deemed vacation of the interim order passed by the High Court in the case of Yash Pal v. Union of India the petitioners were bound to deduct tax at source.

15. The petitioners have filed separate rejoinders in which they have averred that the decision of the two judges Bench of the Himachal Pradesh High Court in [Rudra and Company, Madan Lal and Company and Raj Kumar and Company Vs. Union of India \(UOI\) and Others](#), cannot be relied upon by the respondents to justify the impugned notices because the same stands overruled by the Full Bench of the same High Court in C. W. P. No. 224 of 1999 [Saini and Co. and Others Vs. Union of India \(UOI\) and Others](#), decided on September 8, 2000.

16. Respondents Nos. 1 and 2 have filed counter affidavits asserting therein that the applicability of Section 206C in the cases of persons having L-13 licences must be determined keeping in view the fact that such persons also hold L-14 licences.

17. We have heard learned counsel for the parties.

18. The decisions of the Supreme Court in [Union of India and another etc. etc. Vs. A. Sanyasi Rao and other etc. etc.](#), and of the Division Bench of the Himachal Pradesh High Court in [Rudra and Company, Madan Lal and Company and Raj Kumar and Company Vs. Union of India \(UOI\) and Others](#), have been considered by the Full Bench of the Himachal Pradesh High Court in C. W. P. No. 224 of 1999 [Saini and Co. and Others Vs. Union of India \(UOI\) and Others](#), decided on September 8, 2000. A careful reading of that judgment shows that after analysing the provisions of Section 44AC and Section 206C of the 1961 Act and making reference to the various decisions, including those relied upon by the respondents, the Full Bench held as under (page 771) :

"Having given anxious consideration to the facts and circumstances of the case, in our opinion, the petition deserves to be allowed. It has been observed in the decision of the second Division Bench in [Rudra and Company, Madan Lal and Company and Raj Kumar and Company Vs. Union of India \(UOI\) and Others](#), that point regarding deduction of tax at source was covered in [Gian Chand Ashok Kumar and Company and Others Vs. Union of India \(UOI\) and Others](#), wherein it was held that a person holding L-13 licence cannot be said to be termed as "buyer" within the meaning of the proviso to Section 44AC and, hence, would not fall within the mischief of Section 206C. According to the Division Bench, however, the ratio of [Gian Chand Ashok Kumar and Company and Others Vs. Union of India \(UOI\) and Others](#), was no more applicable after deletion of Section 44AC and insertion of the Explanation in Section 206C. For coming to that conclusion, the subsequent Division Bench relied upon a decision of the Supreme Court in [Union of India and another etc. etc. Vs. A. Sanyasi Rao and other etc. etc.](#), . In our considered opinion, however, the Division Bench was not right in taking that view. So far as [Union of India and another etc. etc. Vs. A. Sanyasi Rao and other etc. etc.](#), is concerned, there merely the constitutional validity of certain provisions came up for consideration before the apex court and they were held to be intra vires and constitutional. That even otherwise, the provisions were held to be valid and constitutional. [Gian Chand Ashok Kumar and Company and Others Vs. Union of India \(UOI\) and Others](#), was not decided on the reasoning that such provisions were not within the legislative competence or were otherwise ultra vires. The point related to an interpretation of the proviso to Section 44AC and it was held that an L-13 licensee could not be said to be "buyer" as he did not purchase liquor in auction and the sale price of such goods to be sold by him was fixed by or under the State Act. In our considered opinion, the deletion of Section 44AC and insertion thereof in Section 206C did not change the legal position. The Explanation to Section 206C virtually did the same thing which

was formerly done by the proviso to Section 44AC. A person who was a "buyer" u/s 44AC prior to the deletion of the said provision remained a "buyer" even after the amendment in 1993 in Section 206C. Likewise, a person, who was not a "buyer" and whose case was covered under the proviso to Section 44AC prior to the amendment of 1993 remained as such and did not become a "buyer" under the Explanation to Section 206C even after the amendment of 1993. To put it differently, stating positively a person, who was a "buyer" earlier u/s 44AC remained as "buyer" u/s 206C. Similarly, stating negatively, a person, who was not a "buyer" under the former provision remained as such and did not become a "buyer" under the latter provision after the insertion of Section 206C

In our considered opinion, therefore, the former Division Bench in [Gian Chand Ashok Kumar and Company and Others Vs. Union of India \(UOI\) and Others](#), was wholly right and fully justified in coming to the conclusion that a person covered by the proviso to Section 44AC cannot be said to be a "buyer" and hence no tax can be deducted at source in respect of liquor obtained by him from the distilleries. The same principle and analogy will apply to Section 206C as cases of such L-13 and L-13A licensees under the Explanation to Section 206C. We are further of the view that the decision of the Supreme Court in [Union of India and another etc. etc. Vs. A. Sanyasi Rao and other etc. etc.](#), has no effect on the above principle whatsoever. The subsequent Division Bench in [Rudra and Company, Madan Lal and Company and Raj Kumar and Company Vs. Union of India \(UOI\) and Others](#), therefore, in our view, was not right in holding that the legal position was changed and liability of L-13 licensees arose u/s 206C. To us, it is clear that by holding so, the subsequent Division Bench in [Rudra and Company, Madan Lal and Company and Raj Kumar and Company Vs. Union of India \(UOI\) and Others](#), has committed an error of law. With due respect to the Division Bench, we hold that it did not lay down the correct law. We, therefore, approve the ratio laid down in [Gian Chand Ashok Kumar and Company and Others Vs. Union of India \(UOI\) and Others](#), and overrule [Rudra and Company, Madan Lal and Company and Raj Kumar and Company Vs. Union of India \(UOI\) and Others](#), .

We further state that a similar view has been taken by a Division Bench of the High Court of Punjab and Haryana recently in [Naresh Kumar and Co. and Others Vs. Union of India \(UOI\) and Others](#), .

For the foregoing reasons, the petition deserves to be allowed and is, accordingly, allowed. We reiterate the ratio laid down in [Gian Chand Ashok Kumar and Company and Others Vs. Union of India \(UOI\) and Others](#), and overrule the decision in [Rudra and Company, Madan Lal and Company and Raj Kumar and Company Vs. Union of India \(UOI\) and Others](#), . We declare that the persons holding L-13, L-13A licences cannot be said to be "buyers" and the provisions relating to deduction (collection ?) of tax at source do not apply to them. Consequently, the letter dated June 16, 1998 (annexure R3-1), must be held to be illegal and contrary to law and the respondents

are permanently restrained from deducting any amount towards tax at source."

19. We respectfully agree with the reasoning of the Full Bench of the Himachal Pradesh High Court and do not find any reason to make a departure from the consistent view taken by this court in [K.K. Mittal and Co. Vs. Union of India \(UOI\) and Others](#), ; [K.K. Mittal and Co. Vs. Union of India \(UOI\) and Others](#), ; [Satya Pal Amrik Singh and Co. and Others Vs. Union of India \(UOI\) and Others](#), and [Naresh Kumar and Co. and Others Vs. Union of India \(UOI\) and Others](#), The propositions of the law laid down in the two cases of [K.K. Mittal and Co. Vs. Union of India \(UOI\) and Others](#), and [K.K. Mittal and Co. Vs. Union of India \(UOI\) and Others](#), have acquired finality because the special leave petitions filed by the Union of India were dismissed by the Supreme Court after hearing counsel for both the parties. In [Satya Pal Amrik Singh and Co. and Others Vs. Union of India \(UOI\) and Others](#), as well as [Naresh Kumar and Co. and Others Vs. Union of India \(UOI\) and Others](#), the two Division Benches have held that persons holding L-14 and L-14A licences do not fall within the definition of "buyer" and the holders of L-13 licences cannot be treated as sellers qua those holding L-14 and L-14A licences. Therefore, the demands created by respondent No. 3 against the petitioners by assuming that they had committed default in making deduction at source in terms of Section 206C cannot be sustained. The notices issued by respondent No. 3 u/s 226(3) are also liable to be quashed because the same are founded on patently illegal demand notices issued by the said respondent.

20. For the reasons mentioned above, the writ petitions are allowed. The impugned demand notices issued by respondent No. 3 u/s 206C as well as notices issued by the said respondent u/s 226(3) are declared illegal and quashed. The parties are left to bear their own costs.