

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Writ Petition No.20448 of 2009

Date of Decision: December 02, 2016

Food Corporation of India

...Petitioner

Versus

State of Punjab & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Vaibhav Gupta, Advocate, for the petitioner.

Mr.B.M.Vinayak, DAG, Punjab.

Mr.Anil Kumar Sharma, Advocate, for respondent No.2.

RAMESHWAR SINGH MALIK, J.(Oral)

Petitioner impugns the notification dated 02.08.1993 (Annexure P-1) whereby fire cess was sought to be imposed beyond the scope of statutory provisions of law. Petitioner also challenges the subsequent demand notices and appellate orders as well, contained in Annexures P-2, P-4 and P-5.

Notice of motion was issued and in compliance thereof, reply was filed on behalf of respondent No.1. Separate reply was filed on behalf of respondent No.2.

Heard learned counsel for the parties.

When the case came up for hearing on 23.11.2016, following order was passed by this Court:-

“Learned counsel for the petitioner places reliance on a judgment of Hon'ble the Supreme Court in the case of Municipal Committee, Abohar vs. Kanshi Ram and Ors, 1994 (Sup2) SCC 547 and two judgments of this Court in the cases of Municipal Committee, Abohar vs. Surinder Mohan Ahuja, 2012(1) PLR 395 and Municipal Committee vs. Satish Chander Narang and another, 2009(1) RCR (Civil) 222, to contend that present case is squarely covered by the above-said three judgments in favour of the petitioner.

Faced with the above, learned counsel for the State seeks short adjournment to go through these judgments, before addressing his arguments.

On his request, adjourned to 02.12.2016.”

After going through the abovesaid judgments relied upon by the learned counsel for the petitioner, learned counsel for the State fairly states that the judgments relied upon by learned counsel for the petitioner are very much applicable to the facts of the present case and as a matter of fact, case of the petitioner is squarely covered by these judgments.

Having heard learned counsel for the parties and after going through the record of the case, present writ petition has been found

squarely covered in favour of the petitioner by abovesaid judgments. In fact, all three judgments referred to above pertain to respondent-Municipal Committee itself. It has gone undisputed before this Court that relevant statutory provisions of law do not permit imposing of fire cess which was sought to be imposed on the petitioner by way of impugned notification (Annexure P-1). Once it is so, the subsequent demand notice and appellate orders would be the orders without jurisdiction and the same cannot be sustained.

In view of the above said undisputed fact situation obtaining on record of the present case, impugned orders are hereby set aside. The writ petition deserves to be accepted, having been found squarely covered by abovesaid three judgments rendered by the Hon'ble Supreme Court as well as this Court.

Resultantly, with the observations made, present writ petition stands allowed, however, with no order as to costs.

December 02, 2016

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(RAMESHWAR SINGH MALIK)

JUDGE

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*