

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

CWP No.3816 of 2015

Date of decision:02.08.2017

Food Corporation of India

... Petitioner

Vs.

State of Punjab and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Atul Gaur, Advocate, for
Mr. Sumeet Goel, Advocate
for the petitioner.

Mr. I.P.S.Doabia, Addl.A.G.Punjab.

Ms. Shallie Mahajan, Advocate, for
Mr. Harinder Kumar, Advocate
for respondent No.2.

AMIT RAWAL J.

The petitioner – Food Corporation of India has knocked the door of this Court challenging the order dated 03.11.2014 (Annexure P-9) of respondent No.1 - Secretary to Government Punjab, Department of Local Government, whereby the revision petition preferred by respondent No.2 – Municipal Council Barnala against the order dated 05.06.2013(Annexure P-7), pertaining to the House Tax for the year 1986-87 passed by the District Collector, was accepted.

2. Learned counsel appearing on behalf of the petitioner submits that respondent No.2 issued demand notice dated 22.12.1986 (Annexure P-2) under Sections 65/68 of the Punjab Municipal Act, 1911 (hereinafter

called “Act”) calling upon the petitioner to file the objections within a period of one month against the estimated annual rental value of the property of Unit No.1. The proposed annual rent was revised from ₹74,200/- to ₹6, 29, 212/- which came to ₹5,66, 292/- after deducting 10% of the total amount of rental value on account of maintenance charges.

3. Similarly, for Unit No.2 demand notice dated 17.12.1985 for the year 1986-87 was raised proposing the total rental value of ₹2,71,170/-, resulting into charging of ₹40,675.50 on account of house tax from the petitioner.

4. The petitioner preferred the objections but the Administrator, Municipal Council, Barnala, vide order dated 03.03.1987 (Annexure P-4) confirmed the assessment proposals. The petitioner availed the statutory remedy of appeal before the Collector. However, the Additional Deputy Commissioner, Sangrur, vide order dated 12.12.1990 (Annexure P-5) dismissed the appeal on technical ground without adverting to the merits.

5. The aforementioned order was assailed by the petitioner before this Court, by filing CWP No.8571 of 1991 which was disposed of, vide order dated 12.10.2010 (Annexure P-6) and the same reads thus:-

“Since, in the instant proceedings the impugned order Annexure P-8 has been passed merely on the ground that the Appeal was not presented by a competent person as the District Manager was not empowered through any letter or resolution to file the appeal and as such no order adverting to the merits of the case has been passed. The Court is also of the considered opinion that this has resulted in a denial of

substantial right to the petitioner and therefore, it will be appropriate to remit the matter back to the Appellate Authority, with a direction to decide the same on merits by taking into consideration all the contentions that have been raised here in this petition. Since the matter pertains to the assessment and recovery of tax and the impugned order was passed in the year 1990, the Court also deems it appropriate to observe that the Appellate Authority shall dispose of and redress the grievance of the petitioner within a period of four months on receipt of copy of the order.

The Civil Writ Petition stands disposed of accordingly.”

6. The District Collector after examining the merits and hearing the arguments, found that the matter required re-assessment by the Municipal Council and remitted the matter to Municipal authorities for the purpose of charging the House Tax for the year 1986-87 as per the assessment done for the year 1984-85. Learned counsel for the petitioner submitted that though no revision lies before the Secretary but yet the Municipal Council availed the remedy of revision before the Secretary, which was accepted without assigning any reasons. Learned counsel for the petitioner further submitted that the order of revisional authority is wholly erroneous and bereft of reasoning.

7. Per contra, learned State counsel as well as learned counsel for respondent No.2 submitted that there is no illegality and perversity in the order under challenge. The order dated 03.11.2014 (Annexure P-9) is legal and justified and does not call for any interference.

8. We have heard learned counsel for the parties and appraised the paper book.

9. Before we proceed to examine the respective arguments of the parties, it would be apt to reproduce the operative part of the findings rendered by the District Collector which read thus:-

“The arguments of both the counsels heard and the proof available in the file were scrutinized. The present appeal has been filed by the Appellant against the assessment of House Tax for the year 1986-87 of the godowns under his proprietorship at Barnala and in accordance with the orders dated 12.10.2012 passed by the Hon'ble Punjab and Haryana High Court, the same is to be decided afresh after affording an opportunity of hearing by the Court. There is no record in the file that the Appellant has made alterations and extensions in his godowns after the year 1984-85 on account of which the enhancement in rental value could deem to be genuine. The present appeal relates to assessment of House Tax of the godowns for the year 1986-87 by the Respondent and after this, enhancement in the assessment has no concern with this Appeal. Because of lapse of such a long period, keeping in view the today's increased prices of development, enhancement can be justified but after the year 1984-85, the enhancement in the rental value for the purpose of assessment of House Tax for the year 1986-87, Respondent could not justify. In these circumstances, it would be in fitness of things that Respondent

may assess the rental value of the godowns owned by Appellant in accordance with the assessment done in the year 1984-85, particularly when the Appellant has not made any alterations or extensions in his godowns.

Keeping in view the above circumstances, the appeal is allowed and the earlier order in this appeal is cancelled and the case is remanded to the Municipal Council, Barnala with the direction that the rental value of the godowns of the Appellant be assessed by the Municipal Council on the basis of year 1984-85 and the House Tax for the year 1986-87 be assessed and the notice for recovery be issued to the Appellant. Announced. After compliance of the order, the file be consigned to record room.

*Sd/-
District Collector
Barnala.”*

10. The revisional authority concluded as under:-

“6. Having heard the arguments advanced by the learned counsels for both the parties and thoroughly having seen the relevant record and having consulted the various provisions of the Punjab Municipal Act, 1911 relevant to the issue involved, the undersigned is of the considered view that the Municipal Council, Barnala was fully within its power to order re-assessment of annual rental value for the purposes of House Tax for the year 1986-87 u/s 65 of the Punjab Municipal Act 1911. This section 65 of the Act reads as under:-

“65.Public notice of time fixed for revising assessment list.–

(1) The committee shall at the time of the publication of such assessment list give public notice of a time, not less than one month thereafter, when it will proceed to revise the valuation and assessment; and in all cases in which any property is for the first time assessed, or the assessment thereof is increased, it shall also give notice thereof to the owner or occupier of the property.

(2) All objections to the valuation and assessment shall be made in writing before the time fixed in the notice, or orally or in writing at that time.”

It is found that objection raised by respondent No.2 (FCI) against the assessment made by Municipal Council, Barnala for the purpose of fixing annual rental value for the purposes of House Tax for the year 1986-87 was finalized in the presence of Advocate of FCI and the annual rental value was reduced from Rs.6,29,212 to Rs.6,07,900/-, therefore by accepting the petition of revision, the orders dated:05.06.2013 passed by the District Collector, Barnala are set aside.

*Place:Chandigarh
Dated:3.11.2014*

*Ashok Kumar Gupta, IAS
Secretary to Government of Punjab
Department of Local Government.”*

10. On conjoint reading of the findings rendered by both the authorities, in our view, the Secretary to Government Punjab, Department of Local Government erred in accepting the revision on merits by setting aside the order of the District Collector. The District Collector had noticed the

fact that owing to lapse of long time, the respondent was required to assess house tax for the year 1986-87 keeping in view the rental value of godowns taken in the year 1984-85. It was in that background, the matter was remitted to the Municipal Council, Barnala. Moreover, the finding recorded by the revisional authority is without any cogent reasons. The authorities are legitimately expected to pass the reasoned order while dealing with the respective contentions of the parties.

11. Resultantly, the order dated 03.11.2014 (Annexure P-9) passed by the revisional authority is set aside/quashed. Consequently, the order of the District Collector shall become operative. Accordingly, the Municipal Council shall be at liberty to comply with the directions contained in the order dated 05.06.2013 (Annexure P-7) passed by the District Collector expeditiously.

12. The writ petition stands disposed of in the aforementioned terms.

(AJAY KUMAR MITTAL)
JUDGE

(AMIT RAWAL)
JUDGE

August 02, 2017
savita

Whether Speaking/Reasoned
Whether Reportable

Yes/No
Yes/No