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

**CWP No.12601 of 2017
Decided on 13.09.2018**

Food Corporation of India

Petitioner

Versus

The Commissioner, Municipal Corporation, Pathankot

Respondent

* * *

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL, JUDGE
HON'BLE MR. JUSTICE AVNEESH JHINGAN, JUDGE**

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

Mr. S.C. Pathela, Advocate
for the respondent.

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AVNEESH JHINGAN, J.

The Food Corporation of India has filed the present writ petition with the following prayer :

> *"CIVIL WRIT PETITION under Articles 226/227 of the Constitution of India praying for issuance of an appropriate writ, order or direction especially in the nature of mandamus directing the Commissioner, Municipal Corporation to pass fresh decision after taking into consideration the objections of the FCI and setting the same in accordance with law with regard to the revised/final demand notice dated 08.03.2010 (Annexure P-1) issued by the Municipal Corporation, Pathankot whereby it has demanded the house tax amounting to Rs.5,36,984/- for the assessment year 2008-09 and 2009-10 and whereby the Municipal Corporation, Pathankot got deposited the house tax for the assessment year 2008-09*

and 2009-10 amounting to Rs. 5,36,984/- illegally and without having jurisdiction to levy the house tax and recover the same on the godowns constructed by the Food Corporation of India at Pathankot after allotment of its land by Punjab New Mandi Township, Punjab with the prayer that the objections/appeals of FCI be accepted, the demand notice dated 08.03.2010 be set-aside and the amount of Rs.5,36,984/- be ordered to be refunded to the petitioner with interest at the rate of 18%. Any other relief or direction to which the petitioner may be entitled to in the facts and circumstances of the case may also be granted."

2. The Commissioner, Municipal Corporation, Pathankot has been arrayed as respondent in the writ petition.

3. The facts as pleaded in the petition are that the petitioner constructed Godowns on the land allotted by New Mandi Township, Punjab at Pathankot . The Godowns in question were excluded from the purview of Punjab Municipal Act, 1911 vide notifications dated 03-07-1980 and 11-04-1983. A demand notice for assessment year 2008-09 was issued on 02-02-2009 raising a demand of house tax amounting to ₹2,68,497/-. The reply to the said notice was filed by the petitioner that the Godowns are exempted from house tax as the land was allotted by New Mandi Township, Punjab. Thereafter, demand notice dated 03-03-2010 was issued demanding house tax amounting to ₹5,83,010/- for assessment year 2008-09 and 2009-10. The said demand notice was revised on 08-03-2010 and demand was reduced to ₹5,36,984/-. The petitioner deposited the house tax demanded vide cheque dated 31.03.2010. Being aggrieved of the house tax demanded, petitioner filed an appeal before Additional

Deputy Commissioner, Gurdaspur. During the pendency of the appeal, Pathankot was upgraded to a District and the appeal was transferred to Additional Deputy Commissioner, Pathankot. The Additional Deputy Commissioner, Pathankot vide order dated 28-06-2012 transferred the case to Divisional Commissioner, Jalandhar.

4. The Divisional Commissioner, Jalandhar vide order dated 19-02-2014 remanded the matter back to the Deputy Commissioner, Pathankot for passing speaking order. It was further held that contention raised by the petitioner that the house tax can not be imposed on the Godowns in view of various notifications has not been dealt with.

5. In pursuance to the remand, Deputy Commissioner, Pathankot heard the matter and passed order dated 25.06.2014 directing the parties to present their case before the Municipal Corporation, Pathankot.

6. The petitioner filed an application on 16.09.2014 before Municipal Corporation, Pathankot presenting its case as per order dated 25.06.2014. The request was also made for refund of house tax already deposited. As nothing was heard in the matter, reminder was given on 02.12.2014.

7. Being aggrieved of the inaction of the respondent, the present writ petition has been filed.

8. Without expressing any opinion on the merits of the case, the writ petition is disposed of with the direction to the respondent to decide the application dated 16.09.2014 of the petitioner in accordance with law after affording an opportunity of hearing to the

petitioner. Decision shall be taken within three months from supply of certified copy of this order.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

September 13, 2018
pankaj baweja

Whether speaking/reasoned: Yes / No

Whether reportable : Yes / No