

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

LPA-233-2016 (O&M)

Date of Decision: 5.2.2019

The Punjab State Cooperative Supply & Marketing Federation Ltd.,
Chandigarh

...Appellant.

Versus

State of Punjab and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.**

PRESENT: Mr. Vikas Singh, Advocate for the appellant.

Mr. Pankaj Gupta, Additional Advocate General, Punjab.

Mr. Vinish Singla, Advocate for respondent No.4.

AJAY KUMAR MITTAL, J.

1. This Letters Patent Appeal has been filed against the order dated 28.9.2015 passed by the learned Single Judge whereby CWP-20537-2015 filed by the appellant, was dismissed.

2. Put pithily, the facts necessary for adjudication of the instant appeal as narrated therein may be noticed. The appellant is engaged in the work of procurement of foodgrains. It procured the foodgrains from various Mandis in the State of Punjab. After storing in the godowns of the appellant or in the godowns of the Shellers, supplied then to the Food Corporation of India. The appellant had constructed godowns at Amloh on the land which was allotted to Markfed by the Administrator, New Mandi Township, Punjab, Chandigarh vide letter dated 26.8.1974. A notification dated 20.11.1980 (Annexure P-1) was issued under Section 17 of the Punjab New

Act”), whereby provisions of Sections 56, 58, 61 to 86, 96 to 102 etc. of the Punjab Municipal Act, 1911 (hereinafter referred to as “the 1911 Act”) were not to operate in the area given in the schedule. The appellant constructed its godowns and no house tax had been levied thereon as the land was allotted to Marked in the year 1974. The Municipal Council, Amloh imposed house tax amounting to ₹ 1,07,162/- upon the appellant qua its godowns at Amloh. A recovery notice dated 25.5.1996 was issued and the house tax was directed to be recovered as arrears of land revenue. Respondent No.3 vide order dated 29.7.2003, quashed the recovery proceedings against the appellant. Against the said order, the Municipal Council, Amloh filed revision before respondent No.1. Respondent No.1 vide order dated 19.4.2006 (Annexure P-2) allowed the revision petition and remanded the matter to respondent No.3 for adjudicating the issues after affording proper opportunity to the parties. In pursuance thereto, respondent No.3 vide order dated 15.6.2009 (Annexure P-3) dismissed the application filed by the appellant against the recovery proceedings. Against the order, Annexure P-3, the appellant filed revision petition before respondent No.1 who vide order dated 20.12.2013 (Annexure P-4) dismissed the said revision petition. As per the notification, Annexure P-1, the godowns were in khasra No.12min. The appellant challenged the orders (Annexures P-3 and P-4, respectively) before this Court by way of CWP-20537-2015. This Court vide order dated 28.9.2015 dismissed the said writ petition in limine. Hence, the present Letters Patent Appeal.

3. We have heard learned counsel for the parties.

4. Learned counsel for the appellant submitted that vide notification dated 20.11.1980 (Annexure P-1), the godowns constructed by

the appellant were falling within the khasra numbers specified in the last column of the schedule. It was further submitted that the said notification draws no distinction between the land and the constructed structure including godown thereon.

5. On the other hand, learned counsel for the respondents supporting the order passed by the learned Single Judge prayed for dismissal of the appeal.

6. It would be advantageous to refer to Section 17 of the Act which reads thus:-

“17. Partial exclusion of jurisdiction of Municipal Committees, Panchayats and Town Improvement Trusts in new mandi townships,- (1) If any new mandi township or a part thereof lies within the limits of a municipality, notified area, Gram Panchayat area or local area, under the Punjab Town improvement Act, 1922, the State Government may, by notification in the official Gazette, direct that any or all the powers under the Punjab Municipal Act, 1911, the Punjab Gram Panchayat Act, 1952, or the Punjab Town Improvement Act, 1922, as are relevant to the purposes of this Act, shall, subject to such conditions and restrictions as may be specified in the notification, cease to operate in such new mandi township or a part thereof, and the Municipal Committee, the President or any officer of the Committee, the Gram Panchayat or the Town Improvement Trust, as the case may be shall thereafter cease to have jurisdiction over

that new mandi township or a part thereof, as the case may be in respect of such powers.

(2) The provisions of the Punjab Municipal Act, 1911, the Punjab Gram Panchayat Act, 1952, and the Punjab Town Improvement Act, 1922, in so far as they are inconsistent with the provisions of this Act shall not apply to a new mandi township or a part thereof.”

7. A plain reading of sub-section (1) of Section 17 of the Act clearly spells out that the State Government is empowered to issue notification in the Official Gazette specifying the conditions and restrictions whereby any or all the powers under the Punjab Municipal Act, 1911, Punjab Gram Panchayat Act, 1952 or the Punjab Town Improvement Act, 1922 shall cease to operate in such New Mandi Township or part thereof, where the same lies within the limits of the municipality, notified area, Gram Panchayat area or local area under the Punjab Town Improvement Act, 1922. Further, the Municipal Committee, the President or any officer of the Committee; the Gram Panchayat or the Town Improvement Trust, shall cease to have jurisdiction over that New Mandi Township or a part thereof in respect of such powers. Under sub-section (2) thereof, it has been provided that the provisions of Punjab Municipal Act, 1911, the Punjab Gram Panchayat Act, 1952 and the Punjab Town Improvement Act, 1922, in so far as inconsistent with the provisions of the Act, shall not be applicable to the New Mandi Township or part thereof.

8. In exercise of the said power, the State Government issued notification dated 20.11.1980 (Annexure P-1) providing that certain provisions under the 1911 Act, would not operate in the New Mandi

Township. Under the said notification dated 20.11.1980 (Annexure P-1), the powers under various provisions of the 1911 Act mentioned therein for the purposes of the Act had been ordered to cease to operate in such areas of the New Mandi Townships including Amloh as is mentioned in the Schedule. The appellant constructed the godowns in khasra No.12 min which is included in the said notification. Accordingly, the appellant was entitled to the benefit of the same. The area which is exempt is with reference to khasra numbers and all the properties in those khasra numbers would be exempt from house tax. In other words, the area on which the godowns of the appellant have been constructed fall within the exempted area and, therefore, the appellant was not liable to pay the house tax.

9. In view of the above, the learned Single Judge was in error in holding that the notification (Annexure P-1) was only with respect to the property belonging to the New Mandi Township and was not applicable to the godowns of the appellant. Accordingly, the appeal is allowed and the order dated 28.9.2015 passed by the learned Single Judge is set aside. As a consequence thereto, the order dated 20.12.2013 (Annexure P-4) passed by respondent No.2, impugned in the writ petition is also set aside.

(AJAY KUMAR MITTAL)
JUDGE

February 5, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned
Whether Reportable

Yes
Yes