(1985) 02 RAJ CK 0014

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2039 of 1975

Bhedi Lal Kapur Chand APPELLANT

Vs

State of Rajasthan and Another RESPONDENT

Date of Decision : 05-02-1985

Acts Referred:

Rajasthan Municipalities (Octroi) Rules, 1962 — Rule 14

Citation : (1985) 2 WLN 449

Hon'ble Judges : P.K. Banerjee, C.J

Bench : Single Bench

Judgement

P.K. Banerjee, C.J.—This rule is directed against the order passed by the Municipal authorities for payment of octroi duty on the goods imported by the petitioner within the Municipality for Ajmer.

2. The short question on which this rule is to be made absolute to the extent indicated hereinafter is that Rule 14 of the Rajasthan Municipalities (Octroi) Rules, 1962 provides as follows:

(14) Determination of the value of goods for assessment of octroi:

(1) Before the octroi duty is paid the original invoice (bijak) bearing the signature of the selling dealer or the dispatching agent, if any, shall be produced and may be considered valid and accepted as evidence of the value of the goods. The original of its copy produced by the person bringing the goods shall be pasted on the bill-cum-receipt in Form 2;

(2) All goods, on which an ad valorem octroi is leviable will be taxed according to their full value as given in the original bill or invoice (Bijak);

Note: Full value includes all taxes or excise duty and charges but does not include Railway freight, commission or other incidental charges on the goods;

(3) If the person bringing the goods fails to produce the invoice or bill of the goods being brought by him or he refuses to furnish the information as required

under Rule 8, the Incharge of the octroi outpost shall forward the goods to the Octroi Superintendent under the charge of Municipal employee for appraisement and recovery of the octroi due;

(4) The Octroi Superintendent on receipt of such goods shall appraise the same as per market rate with the assistance of at least two dealers dealing in the same commodities and shall levy the octroi due;

(5) It the invoice is subsequently received and presented by such person within thirty days of the date of payment of octroi after appraisement of goods by the Octroi Superintendent, the amount of octroi charged in excess, if any, shall be refunded;

(6) If there is any dispute between such person and the Octroi Superintendent regarding acceptance of the invoice or bill value, the matter shall be decided by the Executive Officer;

(7) In case the Incharge octroi out post charges any excess amount of octroi due to some error, mistake or by wrong calculation, the amount, so charged, in excess, shall, on the application of the payee within thirty days of the deposit of octroi amount, be refunded to him after verification of the correctness of the amount.

(8) In case where the State Government have, under Sub-section (5) of Section 107 of the Act, exempted any class of goods from payment of octroi subject to the production of certificate from concerned authorities and the person bringing such goods does not produce the requisite certificate at the time of entry of the goods within Municipal limits, he shall have to forthwith deposit such amount as is equivalent to the amount of octroi leviable on such goods:

Provided that the amount so deposited shall be refunded to the payee if he makes an aoplication within a period of 2 months from the date of such deposit, along with the aforesaid certificate.

3. It is clear from Rule 14 that all goods on which ad valorem octroi is leviable will be taxed according to their full value as given in the original bill or invoice. If any duty, excise duty or any charge is not in the original bill or invoice, it cannot be leviable for octroi duty. In the present case, it appears from the bills which have been annexed with this writ petition that they do not include any excise duty at all and it is not known to the Court whether the value of the goods also includes excise duty, but we cannot go beyond the bill to find out what is the excise duty included in the bill in view of the plain reading of the Rule 14 that the invoice or bill will be taken for consideration of octroi duty and in that view of the matter, in my opinion, the respondents will reconsider the whole matter in the light of the Rule 14 and will consider the price mentioned in the invoice. On the basis thereof the respondents will decide as to what will be the octroi duty on the price of the goods. If it is found that the petitioner has already paid the octroi duty on the invoice price ad valorem, then the petitioner has nothing to pay. If

otherwise, however, from the security already deposited, the Municipal may deduct that portion of octroi duty which has not been paid on the basis of ad valorem price as found in the invoice or the bill and the balance be refunded to the petitioner. If it is, however, found that the petitioner has already paid octroi duty on the basis of ad valorem price in the bill then all the amount of security should be refunded. For all these things exercise should be done within six months from today.

4. The rule is made absolute to the extent indicated above. There will be no order as to costs.

