(2014) 11 P&H CK 0036

In the Punjab And Haryana At Chandigarh

Case No : RSA No. 4588 of 2014 (O and M)

Executive Officer, Municipal Council — APPELLANT

Vs

The Punjab State Electricity Board and Others — RESPONDENT

Date of Decision : 13-11-2014

Acts Referred:

Citation : (2015) 178 PLR 229

Hon'ble Judges : R.P. Nagrath, J

Bench : Single Bench

Advocate : Ashok Kumar Arora, Advocate for the Appellant;

Final Decision : Dismissed

Judgement

R.P. Nagrath, J.

CM Nos. 10645-46 of 2014

For the reasons stated in the applications supported by affidavit, same are allowed and delay of 87 days in filing and 28 days in re-filing the appeal is condoned.

RSA No. 4588 of 2014

1. The respondent-Electricity Board filed a suit before the trial Court challenging levy of octroi duty on the electric meter brought by the Electricity Board within the municipal limits of Gurdaspur, @ 3% p.a. under Item No. 71 as illegal, void and breach of the provisions and to charge these items @ 11/2 % p.a. under Item No. 72 of the Schedule and for refund of the amount illegally recovered for the period from 11.7.2002 to 16.1.2006. The trial Court decreed the suit and appeal against that judgement was also dismissed.

2. The Executive Officer of the Municipal Council, Gurdaspur has preferred the instant Regular Second Appeal (RSA).

3. I have heard learned counsel for the appellant and perused the judgements

passed by both the Courts below.

4. It was pleaded by the appellant-defendant in the written statement that the Municipality had been charging octroi earlier on the import of electric meter @ 1 1/2% p.a. as per Category VIII Item No. 72 but when the plaintiff-Board started importing electronic meters then it was covered under Category. VII of Item 71 for which the prescribed rate of octroi chargeable was @ 3% p.a.

5. The above contention of learned counsel for the appellant cannot be sustained because the meters to be installed at the premises of the consumers even if those are electronic meters being an improved version of recording of the meter, cannot be taken out of the ambit of the term ''electric meter''. Item No. 72 of the Schedule refers to the electric goods not specified elsewhere in the Schedule such as-electric engines, electric meters, heaters, toasters, ovens, hot plates, and electric Stabilizer, irons including their spare parts, wires, plugs, bulbs, switches, meter holders, shade cables, boti insulated or otherwise earthen and porcelain insulators, rotary converters, control gears and parts thereof and chargeable @ 11/2%. The above item, therefore, succinctly covers electric meters. Item No. 71 of the Schedule refers to consumer electronics of the nature given in the item which cannot possibly include the electronic meters meant for recording consumption of energy.

6. Item 71 of the Schedule is reproduced as under:--

"71. (a) Consumer electronics including wireless receiving instruments and apparatus, radios and radiograms, gramophones, television sets, VCRs and VCPs audio and video cassettes, tape-recorders, valves, accumulators, amplifiers and loud speakers, electronic goods and spare parts thereof.

b) A Electronic components, parts and associated hardware of manufacture of electronic goods."

7. The learned counsel further submitted that such electronic meters can be scientific instrument and covered under Item No. 69 of Category VII. The aforesaid question was also considered by this Court in CWP No. 5619 of 1986 decided on 22.04.2005 (Punjab State Electricity Board v. Municipal Corporation, Ludhiana and another, 2005(3) RCR (Civil) 508) and it was held that ''electric meters'' could not be described as scientific/mathematical gadgets. The electric meters would come within the ambit of Item No. 72. From the above discussion, I find that the interpretation put by the learned trial Court as affirmed by the appellate Court is quite correct and there is no scope of interference. No substantial questions arises in the instant appeal.

Dismissed.

