
(1996) 04 P&H CK 0107
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 3506 of 1996

Gestetner (India) Ltd.	Vs	APPELLANT
The Municipal Corporation and Others		RESPONDENT

Date of Decision : 30-04-1996

Acts Referred:

Punjab Municipal Corporation Act, 1976 — Section 116

Citation : (1996) 114 PLR 259

Hon'ble Judges : S.S. Sudhalkar, J;G.S. Singhvi, J

Bench : Division Bench

Advocate : K.L. Goyal and A.R. Takkar, for the Appellant; None, for the Respondent

Judgement

G.S. Singhvi and S.S. Sudhalkar

1. This petition has been filed to quash notice, Annexure P-2 issued by the Municipal Corporation, Ludhiana regarding seizure of Gestetner Copy Model 5327. According to the petitioner, the goods were being carried by its representative from Chandigarh to Ludhiana for the purpose of demonstration when the Maruti Van in which the goods had been loaded was stopped by the staff of octroi check post and the officers of respondent No.2 Corporation seized the goods and demanded a sum of Rs. 4,70,000/- on the allegation of non-payment of octroi.
2. During the pendency of the writ petition, the goods belonging to the petitioner have been released pursuant to the order dated 20.3.1996 passed by this Court, on payment of octroi which could be levied on such goods.
3. Shri Takkar has stated that the earlier decision rendered by this Court in Gian Chand v. The State (1958) 60 PLR 539 does not lay down correct law that the Municipal Corporation is not empowered to levy and penalty on the petitioner.
4. Today, Shri Goyal has invited our attention to the decision of Supreme Court in Municipal Corporation, Ludhiana Vs. Commissioner of Patiala Division, Patiala and

Another, in which the Supreme Court has held that the Municipal Corporation does not have any power to enforce any penalty on the person who is charged with the allegation for bringing goods without payment of octroi.

5. In view of the decision of the Supreme Court, we do not find any justification to allow the respondents to proceed with the penalty proceedings against the petitioner.

6. Consequently, the writ petition is disposed of as having become infructuous with liberty to the petitioner to challenge the imposition of octroi by taking appropriate proceedings permissible under the provisions of law. We also give liberty to the respondents-Corporation to take any appropriate proceedings in accordance with the provisions of law.

7. The bank guarantee deposited by the petitioner is ordered to be released.

8. Keeping in view the fact that the writ petition has remained pending before the Court, we allow ten days time to the petitioner to file appeal, if any, against the imposition of octroi.