
(1977) 01 DEL CK 0002

In the Delhi High Court

Case No : Civil Writ Appeal No's. 73 and 240 of 1976

Man Mohan Tuli and Another

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 27-01-1977

Acts Referred:

Citation : (1977) ILR Delhi 643

Hon'ble Judges : H.L. Anand, J

Bench : Single Bench

Advocate : Madan Bhatia, M. Dayal, B. Kirpal, K.R. Gupta, R.B. Datar, V.P. Singh, for the Appellant;

Judgement

H.L. Anand, J.

(1) These petitions under Article 226 of the Constitution of India raise a number of interesting questions as to the nature and incidents of terminal tax in the context of the rather unusual location of immovable property, consisting of godowns, which are situated at the Delhi-U.P. border in such a manner that while the only entrance to the property and a part of the built area is within the territorial limits of the State of U.P., and within the local area of the Ghaziabad Nagar Palika, a substantial part of the property falls within the territorial limits of Union territory of Delhi.

(2) The petitions were filed in the following circumstances. Manmohan Tuli, a resident of Delhi, owns a piece of land situated on the Grand Trunk Road near the 6th mile stone from Delhi to Ghaziabad beyond Delhi-U.P. border. The land is surrounded in the south and west by the territory of U.P. and on the other two sides by the Union territory of Delhi. On the aforesaid land the owner built a number of godowns apparently at the instance of and for the benefit of certain road transport organisations having inter-state operations for the carriage of goods and some industrial houses having national marketing channels as a possible site for transshipment cum sorting out centre with a view to rationalise

transport operations, save time, and reduce costs. The godowns are built on the land in such a manner that the only opening to the building is from the G.T. Road, which is within the territory of the State of U.P. and forming part of the local area of the Ghaziabad Nagar Palika. The north of the land is undeveloped, low lying and waterlogged and is apparently incapable of being used to provide either any outlet or for facilities or services, either by the owner of the property, its occupants or the Municipal Corporation of Delhi. In course of time some of these godowns were let out to some of the transport organisations, which have inter-state operations, as indeed to some of the industrial houses having inter-state movement of goods. The property tax is levied by the Ghaziabad Nagar Palika, which claims that the entire property would be within the local area of its jurisdiction. The entrance to the building admittedly being in the U.P. territory and, Therefore, this side of the terminal tax barrier set up by the Municipal Corporation of Delhi, as indeed the U.P. Delhi border post, the location of the godowns has been beneficial to the transport operators, as indeed the industrial houses, who found it convenient for the purpose of transshipment and sorting out of goods meant for different destinations in, as well as outside Delhi, after transit through the Union territory of Delhi. The need for transshipment and sorting out apparently arises because in the course of operations of large transport organisations and industrial houses goods meant for different destinations in and beyond Delhi are transhipped to different vehicles meant for common destinations so as to avoid delay in transportation and in the process reduce the cost of transportation. For reasons, which are not clear, but, may perhaps have some connection with the possible attempt to misuse the godowns to smuggle goods into Delhi, without payment of terminal tax, an attempt was made by the Municipal Corporation of Delhi to set up a sort of a terminal tax post outside the main gate of the building and on the property of the owner on the assumption that the property was within the Union territory of Delhi and an entry of goods into the property was tantamount to entry of goods in the Union territory of Delhi, which would attract terminal tax, either on the basis that the goods were in transit or on the basis that they were meant for consumption within the local area of the Municipal Corporation of Delhi. This was obviously objected to by the owner and it is a common case of the parties that there is at present no terminal tax post outside the building. It is nevertheless claimed by the Municipal Corporation of Delhi that any entry of goods into the building would attract either a transit fee, if the goods are in transit, in which case the goods should be exported out of the territory without transshipment, storage or halt beyond the time allowed in the transit pass, or to terminal tax in accordance with the Rules, if they are intended for use and consumption within the Union territory of Delhi. A further claim was made on behalf of the Corporation that if, having entered the building the goods leave the building, they would be chargeable to further transit fee or terminal tax, as the case may be, when they entered the Union territory again through the terminal tax post set up at the Delhi-U.P. border. Here again, it is contended that if such goods are in transit they would be liable to payment of transit fee, subject to the liability of the goods to be transported out of Delhi

without any transshipment or haltage beyond the time allowed under the Rules, and to terminal tax, if they are eventually intended for use and consumption within the Union territory of Delhi.

(3) These claims of the Corporation are contested, both by the owner of the property as well as some of the occupants of the garages. On behalf of the owner it was urged that because of the attitude of the Corporation the occupants of garages would have to pay terminal tax thrice over, once to the Ghaziabad Nagar Palika, and twice to the Municipal Corporation of Delhi, once at the entry into the building and again on entry at the U.P.-Delhi border and it is for this reason that the tenants had threatened to vacate the garages and, since the building cannot be put to any other use, the owner would be put to considerable financial loss, particularly, having regard to the fact that he has spent considerable funds in the construction of the building. The claim made by the corporation are also contested by some of the occupants. C.W. 73 of 1976 was filed by Manmohan Tuli and, on the objection as to his locus standi, one of the tenants, associated Traders Engineers Ltd., an inter-state road transport organisation, was allowed to be impleaded as a co-petitioner. Civil writ 240 of 1976 is by M/s. Nitco Roadways (P) Ltd., another transport organisation, who is also one of the tenants in the building. An earlier attempt by it to assail the claims of the Corporation in the Supreme Court of India proved abortive on account of the limited jurisdiction of the Supreme Court under Article 32 of the Constitution and the suspension of the fundamental rights. Hence these petitions.

(4) The first question that requires consideration is as to whether, having regard to the peculiar location of the building, it could be said that the godowns form part of the local area of the Municipal Corporation of Delhi so as to attract the incident of terminal tax on the entry of goods into the building and entitle the Municipal Corporation of Delhi to levy the tax. On behalf of the petitioners it is urged that even though a substantial part of the property falls within the Municipal limits of the Corporation the entire building would nevertheless be beyond its taxing limits on account of the application of a two-fold test, namely, (a) situs of the entry to the building and (b) the ability of the Corporation to provide services. It is urged that the only access to the building is from the territory of the State of U.P. and for the purpose of taxation the property should be deemed to be situated within the territory of U.P. and within the local area of the Ghaziabad Nagar Palika. It is further urged that having regard to the situation of the building the Municipal Corporation of Delhi is neither in a position to render any of the civic services to the area nor has in fact done so and is, Therefore, not competent to impose municipal taxation. The incident of terminal tax on the entry of goods into the building is, however, sought to be justified on, behalf of the Corporation on the short ground that a substantial part of the property admittedly falls in the Union territory of Delhi and, Therefore, within the local area of the Municipal Corporation of Delhi.

(5) Section 178 of the Municipal Corporation Act, 1957 (for short, the Act)

provides that "there shall be levied on all goods carried by railway or road into the Union territory of Delhi from any place outside thereof, a terminal tax. . . ." Section 179 of the Act further provides that such tax shall be payable on demand and shall be collected by the Central Government in such manner and through such agency as may be specified by notification in the official gazette". It is not disputed that pursuant to the provisions of Section 179 the Municipal Corporation of Delhi has been authorised as the terminal tax collecting agency by the Central Government. In exercise of powers conferred by Section 183 and 479 of the Act the Central Government also promulgated the Delhi Terminal Tax Rules, 1958 (for short, the Rules) which, inter alia, provide for establishment of terminal tax barriers for the purpose of collection of terminal tax leviable under the aforesaid provision. There can be no dispute that what attracts the levy is the carriage of the goods "into the Union territory of Delhi from any place outside thereof". When the goods are carried into the building of which the only entrance is in the territory of the State of U.P. and stored for transshipment or otherwise in the godowns, some of which admittedly are on the territory of that State, and there is no opening from the building to the Union territory of Delhi, it could not be said that such carriage was tantamount to the carriage of goods into the Union territory of Delhi. This is so because the carriage is in fact into a building the access to which is not through the Union territory of Delhi and part of which is admittedly not in the Union territory of Delhi. Whatever may be the position of other municipal taxation, the entry of the goods into such a building could not be said to be an entry into the Union territory of Delhi for the purpose of terminal tax on goods. The goods would be carried into the Union territory of Delhi only when they enter into an area which, is freely accessible from the Union territory of Delhi and which in turn has an opening into that territory, as would happen where the goods are carried into the Union territory of Delhi either through the terminal tax barrier fixed under the Rules or otherwise at any point of entry where there is an access to the Union territory. For these reasons for purpose of terminal tax the building could not be said to be situated within the Union territory of Delhi. It is well settled that the municipal limits are not necessarily co-terminus with the taxable limits where the property is so situated at the border of the two States and prima facie taxability would depend on the ability of the local body to provide the necessary civic services. If the Municipal Corporation of Delhi is unable to provide any of the municipal services because of the peculiar location of the property and the situs of its only entry, as in the present case, such a property would prima facie be beyond its taxable limits. This is so because taxation has relation to the provisions for services and even if the services are not provided for other reasons at least there should be the ability to provide the services to bring an area within such limits. In the absence of total disability to provide any of the services the property could not be said to be within the taxable limits of the Municipal Corporation of Delhi. It is pertinent to notice in this connection that the Municipal Corporation of Delhi has admittedly not provided any of the services to the building nor has it claimed that it is in a position to do so unless it passes through the territory of the neighbouring local

body ill the territory of the State of U.P. This contention of the petitioners must, Therefore, prevail and it must be held that for purposes of terminal tax entry of goods into the building and their storage in it for transshipment or otherwise does not amount to carriage of goods into the Union territory of Delhi in transit or otherwise and the Municipal Corporation of Delhi is not entitled to levy any terminal tax, whether by way of transit fee or otherwise.

(6) In the way I have looked at the first question none of the other questions raised on behalf of the petitioners would really survive and ordinarily, I would have, Therefore, felt relieved of any obligation to deal with the other contentions but, having regard to the fact that the decision of the first question is not altogether free from difficulty, and learned counsel for the parties addressed elaborate arguments in support of the other contentions, it would be proper to deal with these contentions.

(7) The next question that must, Therefore, be considered is as to the nature of the levy and its legal incidents. According to the petitioners, terminal tax is livable on the entry of goods into a local area for consumption, use or sale therein by virtue of Entry 52 in List II of the Seventh Schedule to the Constitution of India and entry of goods into a local area in course of transit, whether or not after transshipment or haltage, would not attract the incident of such tax. A terminal tax, proceeds the argument, on goods which are in transit could be levied only by the Central Government by virtue of Entry 89 in List I of the Seventh Schedule, if such goods were carried by railway, sea or air and such a tax would not be livable on goods carried by road. It is further urged that the entry of goods would attract terminal tax only if they are carried into the Union territory of Delhi by rail or road in the sense of being imported into the Union territory and get mixed up with the mass of the property in the local area. The incident of terminal tax is, however, sought to be justified on the ground that all goods carried by rail or road into the Union territory of Delhi are liable to the levy, irrespective of whether they are in transit through the Union territory or are imported into it for the purpose of Sale, consumption therein and get mixed up with the mass of other property in the area and that neither the language of Entry 52 nor the language of Section 178 of the Act import any limitation on the incident of taxation. It is further urged that in terms of Section 178 entry of goods in transit also attracts the tax but such goods have been exempted from such tax by virtue of a notification issued by the Central Government u/s 181 of the Act. It is, however, urged that goods in transit are, however, exempt only if their carriage through the Union territory of Delhi conforms to the Rules which clearly provide a manner in which such goods would be dealt with while in transit and that the Rules clearly preclude any transshipment, storage or haltage beyond the permissible period. The contention raised on behalf of the petitioners with reference to the language of Entry 52 of List II of the Seventh Schedule to the Constitution is repelled and it is urged that by virtue of the plenary power of Parliament in relation to the Union territory of Delhi, in exercise of its power under Article 346(4) of the Constitution of India, the delimitation of the taxation

powers under Lists I and II is of no consequence and that in view of the undisputed power of Parliament to impose any tax in relation to the Union territory of Delhi it is unnecessary to read into Section 178 of the Act the limitation contained in Entry 52.

(8) It must, however, be pointed out that, even though the transporters concerned in these petitions were required to pay transit fee by the Ghaziabad Nagar Palika, they were not averse to the goods in transit being subjected to a payment of transit fee by the Corporation. But the large question was raised on behalf of the petitioners because, unfortunately, the Rules relating to transit, being rather out of tune with the present day realities of the inter-State road transport, contain rather anachronistic provisions which do not recognise transshipment or temporary storage or haltage for the purpose of transshipment and coordination between the various vehicles operating around the country as a natural incident of transit and treats goods in transit for the purpose of taxation only if without transshipment or stoppage the goods pass through the Union territory of Delhi within a few hours that are allowed for the purpose.

(9) What then is the nature of the terminal tax and how far are the goods in transit, after transshipment or stoppage, liable to such tax, are the questions that must, therefore, be considered. It will be useful to examine the nature and incidents of terminal tax in its historical perspective. The word "octroi" comes from the word "octroyer", which means "to grant", and in its original use meant, "an import" or "a toll" or "a town duty" on goods brought into a town. Initially octrois were collected on ports but the system was eventually extended to the town limits. u/s 80A(3)(a) of the Government of India Act, 1915, as amended in 1919, the Governor-General in Council framed Rules on December 16, 1920, known as the Scheduled Tax Rules. Schedule II of these Rules deal with taxes for the benefit of local authorities. Item 7 dealt with "octroi". Item 8 was in the following terms:

"8.A terminal tax on goods imported into a local area, in which an octroi was levied on or before 6th July, 1917".

In 1924 item 8 was substituted as under :

"8.A terminal tax on goods imported into or exported from a local area save where such tax is first imposed in a local area in which octroi was not levied on or before July 6, 1917".

In the Government of India Act, 1935 this item was replaced by two items, one dealing with "terminal tax" and the other with the right of a local area to impose tax on "entry" of goods into a "local area". The former was in the Central List-List I, and the latter in the Provincial List-List II of the Seventh Schedule to the said Act. The provision for terminal taxes in List I of Seventh Schedule to the Government of India Act, 1935 was in these terms :

"58.Terminal taxes on goods or passengers carried by railway or air; taxes on

railway fares and freights."

The provision for taxes on entry of goods into a local area is contained in Entry 49 in List II of the Government of India Act, which was in these terms :

"49. Cesses on the entry of goods into a local area for consumption, use or sale therein".

These provisions were continued by the Constitution of India. Entry 89 in List I of the Seventh Schedule to the Constitution of India corresponds to Entry 58 in List I of Seventh Schedule to the Government of India Act, 1935, while Entry 52 in List II of the Seventh Schedule to the Constitution of India corresponds to Entry 49 in List II of the Government of India Act with minor difference of phraseology. This is how the two items are worded in the Constitution of India :

"89. Terminal taxes on goods or passengers, carried by railway, sea or air; taxes on railway fares and freights".

"52. Taxes on the entry of goods into a local area for consumption, use or sale therein".

(10) The history of these two taxes clearly indicates that, while terminal tax is a kind of octroi which is concerned only with the entry of goods in a local area, irrespective of whether they are used there or not, octrois were taxes on goods brought into an area for consumption, use or sale and were leviable in respect of goods put to some use or other in the area but only if they were meant for such use. There is a definite distinction between the two types of taxes. While the terminal taxes must be : (a) terminal, (b) confined to goods and passengers carried by railway or air and must be chargeable on rail or air terminus and be referable to services rendered or to be rendered by some rail or air transport organisation, the essential features of the other is : (a) the entry of goods into a definite local area, and (b) requirements that the goods should enter for the purpose of consumption, use or sale therein (2).

(11) Another feature of the two taxes is also obvious that, while the terminal tax was to be levied and administered by the Central Authority, the tax on the entry of goods in the local area was a provincial subject and primarily intended for the local bodies to augment their meagre resources. It would be useful to remember in this context that before the Municipal Corporation was set up in Delhi the erstwhile Delhi Municipal Committee was collecting taxes on the entry of goods in the local area in accordance with the provisions of the Punjab Municipal Act which, by the very nature of that statute, was confined to the Provincial List and its corresponding State List in the Constitution of India and could, Therefore, authorise collection of tax on entry of goods in terms of item 52.52 of List II of the Seventh Schedule to the Constitution of India and, Therefore, only where entry is into a local area and one for consumption, use or sale therein and not for a mere transit, it would, Therefore, be necessary to consider and construe the

provisions of Section 178 of the Act in this historical perspective. This is how the Section runs :

"178(1) On and from the date of the establishment of the Corporation u/s 3, there shall be levied on all goods carried by railway or road into the Union territory of Delhi from any place outside thereof, a terminal tax at the rates specified in the Tenth Schedule. (2) The Central Government may, by notification in the Official Gazette, vary from time to time, the rates specified in that Schedule, in relation to any goods or classes of goods so, however, that where the rates are increased, the increased rate shall not be more than, treble the rates so specified. (3) "The Central Government may by like notification declare that with effect from such date as may be specified in the notification, the terminal-tax levied in relation to any goods or class of goods shall, for reasons specified in the notification, cease to be levied."

A comparison of the phraseology used in sub-section (1) of Section 178 with Entry 89 of List I and Entry 52 of List II of Seventh Schedule to the Constitution of India discloses an interesting feature of it. The phraseology of the sub-section neither strictly conforms to the language of one Entry nor the other. It does appear to be a peculiar amalgam of the two. It borrows the expression "a terminal tax" from Entry 89 of List I, as indeed the expression "carried by" the similarly ends there because that mode of carriage of goods, envisaged by Entry 89, is not incorporated. It used the expressions "carried by railway or road" as distinguished from "carried by railway, sea or air" used in Entry 89. At the same time it scrupulously avoids the use of the phraseology employed in Entry 52 of List II because it neither used the expression "entry of goods" nor the expression "local area" nor introduces a limitation as to the purpose for which the entry is to be effected. It also scrupulously avoids the expression "octroi" either in the body of the section or in its headnote. Some indication of the legislative intent is, however, available from the language employed in Sections 463 and 464 of the Act, which contain the penal provisions. While Section 463 makes penal an act of bringing "within the Union territory of Delhi" any goods liable to terminal tax without the payment of such tax. Section 464 envisages that such goods must be "imported into Delhi" and by the further use of the expression "introduction of any such goods within the Union, territory of Delhi" postulates that the destination of such goods must be Delhi and must be brought into Delhi for being mixed up with the other mass of property in the area.

(12) There is, Therefore, considerable force in the contention urged on behalf of the Corporation that the Phraseology of Section 178(1) of the Act examined in the context of the language employed by the two items on Lists I and II, referred to above, indicates that the provision authorise the imposition of a terminal tax not only on the entry of goods in to the local area for consumption, use or sale therein but also for any entry, irrespective of its purpose, including an entry for the purpose of further transit. What gives further reinforcement to this contention is the fact that by virtue of Article 346(4) of the Constitution of India

the power of Parliament .in relation to the Union territory of Delhi is of a plenary nature which transcends the limits of the Lists in the Seventh Schedule to the Constitution of India with the result that it was open to Parliament to have authorised the levy of a terminal tax which was much wider in its sweep and ambit than the corresponding tax authorised by the State enactments within the limitation of Entry 52 in List II for the benefit of the local bodies. Such a construction of Section 178(1), however, even though apparently plausible, and quite convincing, cannot stand closer scrutiny. What Section 178(1) envisages is a carriage of goods into the Union territory from any place outside such territory. The expression "into" does not envisage a mere passage through "the Union territory of Delhi but has the element of merger of the goods into the general mass of property in the territory. The expression "terminal tax" by its very nature has also relation to the termini and envisages that the movement of goods must terminate into such territory. The liability to the levy could not, Therefore, extend to goods, which do not come to a halt in the territory and are intended for further movement. It is also not possible to countenance the suggestion that while the numerous local areas covered by the local bodies in the country are entitled, by virtue of the limitation imposed by Entry 52 of List II, to impose a terminal tax on entry into the local area for the purpose of consumption, use or sale of the goods and not for mere entry for other purposes such as transit, here was something special about the Union territory of Delhi, or perhaps the other Union territories, which necessitated the authorisation of a tax on mere entry irrespective of the purpose of the entry. It would be difficult to find a rational Explanation for the discriminatory treatment that would thus be meted out to the residents of Delhi as also to those who bring goods within the territory of Delhi for transit to the adjoining territories. It is also difficult to believe that Parliament intended to confer powers on the Corporation a local body, wider than similarly situated bodies elsewhere in the country. Having regard, Therefore, to the historical background of these taxes and the other considerations it would be reasonable to construe the provisions of Section 178(1) of the Act as authorising a levy of a terminal tax in the terms in which such a tax could be justified with reference to Entry 52 of List II of the Seventh Schedule. It is true that the Rules framed by the Central Government u/s 181 of the Act do envisage the wider sweep of the terminal tax in that the Rules lay down a procedure to deal with entry of goods in transit but that by itself would not be determinative either of the nature of the tax or of the true meaning and correct interpretation of the provisions. The form of the tax is not necessarily determinative of its true nature- What is important is the substance. The Rules and the notification apparently make the necessary provisions by way of abundant caution as it was not the intention to tax entry of goods which are in transit and such an intention appears to be fully carried out and be consistent with the way I am looking at the provision. I would, Therefore, have no hesitation in holding that on a true interpretation of the provision and having regard to the historical background of the taxes and the other relevant considerations it must be held that Section 178(1) of the Act authorises the levy of terminal tax on goods which are carried

by rail or road into the Union territory of Delhi from any place outside thereof, for consumption, use or sale in such territory and, Therefore, entry of goods into the Union territory of Delhi in transit, with or without transshipment or haltage, would be outside the taxing sweep of the provision.

(13) In any view of the matter the claim of the Corporation, that the entry of goods into the godowns or eventually again into the local area through the terminal tax barrier would attract the levy of terminal tax if there is transshipment or haltage at any point and if the goods are not removed from the Union territory of Delhi within a matter of a few days, cannot possibly be justified and must be held to be without the authority of law. For the purpose of this contention one may assume that the entry into the building would be tantamount to an entry into the local area and a mere entry even for transit would also attract the levy and could be exempted only in terms of the notification u/s 181 of the Act. In this view of the matter an entry into the building followed by an exit from there for entry into the local area through the barrier could not be treated as two distinct acts of entry. Even if the goods entered the Union territory when they entered the building they are leaving the building not for movement to a place outside the territory but to continue the process of transit. Such second entry is in fact a continuation in law of the entry effected earlier obviously because the entry earlier is into a blind lane which has no access to the rest of the Union territory. It would be wholly unreasonable to treat the second entry as a fresh act of entry. There appears to be no warrant in law for such a claim. Again, on the basis of the aforesaid assumption, there would be no warrant to deny goods in transit the right of transshipment or haltage to the extent such haltage is reasonably necessary either for the purpose of transshipment or for coordination between the various incoming vehicles run by the transport operators. Private road transport organisation has come to be recognised in the country today as an essential, efficient and effective aid in the inter-state movement of goods so vital in the process of distribution. It is also recognised that the task of transportation of goods has been taken up by all India Organisation of Operators in a big way and some of them have country wide net work to enable them to, supplement the effort of the railways to expedite the course of economic development. The transshipment of goods at important sorting centres is the surest way to quicken the pace of transportation as also to reduce costs. To deny, Therefore, the right of transshipment, sorting out and stoppage for a reasonable period for such transshipment, sorting out and for other incidental reasons, such as the delay in the arrival of the connecting transport or on account of breakdown of vehicles, is to make the right of transit without the liability of the levy of terminal tax. authorised by the notification, almost illusory and virtually nugatory. To my mind, the Rules and the practice adopted by the Corporation in insisting that transshipment, haltage or coordination between the various vehicles coming from different directions are outside the ambit of transit, which is exempt from the levy, defeats the object of the exemption. What the notification exempts is goods which are in transit and if movement of goods is scientifically organized

by all India organisations of transporters, transshipment and haltage for the purpose is an integral part of it. To deny such a right by the Rules or in practice would, to my mind, be beyond the scope of the notification. Rules are intended to carry out the object of the notification, that is, to regulate the transit of goods. Rules that are unreasonable and would not permit proper transit cannot be said to be in aid of the notification but are destructive of it. It must, Therefore, be held that goods in transit are not subject to the levy of terminal tax if they are bona fide in transit even though it is necessary to unload the goods for transshipment and the vehicles have to halt for the purpose for a reasonable period subject, however, to the power of the Corporation to take such effective steps for the prevention of evasion of the levy as may be considered necessary.

(14) In administering the terminal tax the Corporation would do well to remember that the free and quick flow of goods throughout the country is absolutely essential to increase production, clear bottlenecks in the distribution system and keep prices from going up. It is equally useful to remember that during the last few decades road transport has been playing an increasing part in the movement of goods from the places of manufacture to the centres of trade and eventually to the door steps of the consumer. Road transport is, Therefore, an essential adjunct to the various channels necessary for economic growth. There is a growing recognition today of the need of free mobility of men and material throughout the world and it is for this reason that it is almost axiomatic to say that the entire world is fast shrinking. It is recognised that, as far as possible, obstacles and bottlenecks in the free flow of goods should be eliminated not only within the country but from the country to the other as well. Terminal tax or octroi duty are among the most of archaic methods of augmenting revenue because they are not only inconducive to free flow of goods but have come to be known as a source of considerable corruption. Most of the developed countries have long dispensed with these obstacles to free movement of goods and abolished taxes on the movement of goods into local areas. A number of developing countries have been following suit. In India itself there has been a considerable demand over the years for these taxes being abolished, even though they are a useful source of the revenues of the local bodies because the removal of these barriers would be conducive to quicker and freer flow of goods throughout the length and breadth of the country. With the advancement of science, technology and management techniques the processes of industry, business, trade and commerce are being increasingly rationalised with a view to eliminate delays and to reduce costs. organized road transport has apparently not lagged far behind and the system of transshipment and sorting out at important centres, where the vehicles coming from different directions coordinate so as to eliminate delays and reduce costs is, Therefore, a welcome development. The rigid attitude of the Corporation in taking a conservative line on the scope of transit in this setting, to say the least, is most unfortunate. It is high time that the system of terminal taxes and barriers is abolished, as far as possible, but even, if it is to be retained there is crying need for the system being

rationalised, having regard to the realities of the fast changing industrial scene in the country. Even if the taxes and the barrier have to stay a rational system to regulate the movement of goods would be necessary and should be evolved by the local bodies, if possible, with the active cooperation of the industrial houses, the points of manufacture, the wholesalers, the points of distribution and the transporters, the instruments of distribution, so that the taxes are collected to augment the revenues but not to constitute any bottlenecks in the much needed flow of goods so essential in the process of development and for the life of the community.

(15) In the result the petitions succeed, the impugned orders are quashed and the Corporation would be restrained from treating entry into the building as an entry into the Union territory of Delhi and from levying any terminal tax on the goods while in transit in the Union territory of Delhi even though it may involve transshipment, halting and coordination for the purpose of transit. The Corporation would, however, be within its rights to device reasonable restrictions in regulating the transshipment, halting and coordination in the process of transit of the goods through the Union territory of Delhi. It is, however, hoped that a reasonable system would be evolved to regulate the transit so as to satisfy various legitimate interest consistent with the preponderant claim of public interest and the revenues.

(16) In the peculiar circumstances there would be no costs.