(1981) 07 P&H CK 0029

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ No. 1447 of 1969

Messrs Raja Industries — APPELLANT

Vs

The State of Haryana and Another — RESPONDENT

Date of Decision : 14-07-1981

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (1981) 07 P&H CK 0029

Hon'ble Judges : M.M. Punchhi, J

Bench : Single Bench

Advocate : Anand Swaroop and Mr. A.L. Bansal with him, for the Appellant; R.P. Bhasin, A.D.A. Hy., for the Respondent

Final Decision : Allowed

Judgement

M.M. Punchhi, J.—This petition under Article 226 of the Constitution of India challenges the levy and collection of Excise Duty on toilet preparations, in which denatured spirit was admittedly used by the petitioner.

2. Facts giving rise thereto may be noted in the minimal. The petitioner who carried on the manufacture of toilet preparations, had to employ therein alcohol. At one stage, for the purpose, he applied for obtaining the requisite licence to posses and then use therein Ethyl Alcohol, the chemical compound of which sychronises in the formula C2H5OH. The licence apparently seems to have been declined, because the business premises of the petitioner were situate in Rohtak District, which had been declared dry for the purpose of the Punjab Excise Act. Later the petitioner obtained licence under the relevant law for possessing and using methyl spirit denatured. Since undisputably, the petitioner had used such spirit for the preparation of its end-products the respondents initiated proceedings against him for the levy and collection of Excise Duty in the purported exercise of powers conferred under Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (For short ''the Act''). After the conclusion of the proceedings, a sum of Rs. 8015,61 paise were assessed to be paid by the

petitioner. This gave cause to the petitioner to approach this Court by way of this petition.

3. Alcohol has been defined in the Act to mean ethyl alcohol of any strength and purity having the chemical composition C_2H_5OH. The definition is not qualified by words in relation to the context. On the other hand, methyl alcohol carries the chemical composition known as CH_3OH. But all the same, it is known as alcohol and an excisable article, as the term is known in the Punjab Excise Act, 1914. Denaturing Methyl Alcohol renders it actually and permanently unfit for human consumption. This is deducible from the combined reading of words ''liquor'' and ''denatured'' used in sub-clauses (14) and (5) of Section 3 of the Punjab Excise Act, 1914. Even according to the ordinary dictionary meaning methyl spirit is alcohol made unpalatable with methyl alcohol and usually other thing9, and its chemical composition is CH_5 - OH.

4. The schedule attached to the Act with effect from the Finance Act, 1964, mentions Tariff Item 4 to attract excise duty in the following terms:

Toilet preparations containing alcohol, or opium, Indian hemp, or other narcotic drug or narcotic.

The word ''alcohol'' used in the tariff item has to partake the same meaning and character, as given in the water tight definition clause of the word in the Act or in the schedule to suggest otherwise. The definition is positive that chemical composition C_2H_5 - OH if used in toilet preparations covered under tariff item No. 4 would attract levy and charge of excise duty on the rates specified. On the admitted case of the parties, Ethyl Alcohol has not been used by the petitioner and instead Methyl spirit denatured has been so used No argument can be built that the word Alcohol employed in the said tariff item is comprehensive enough to include Methyl Alcohol denatured. It is a patent case of transgression and usurpation of powers otherwise meant to be contained within the meaning of the statute. The levy and charge of the duty was not attracted on the admitted facts.

5. For the foregoing reasons, this petition succeeds and is allowed but without any order as to costs.

