(1989) 03 OHC CK 0003

In the Orissa High Court

Case No : O.J.C. No. 2638 of 1981

Ramesh Prasad Sao — APPELLANT

Vs

N.A.C. Joda and Another — RESPONDENT

Date of Decision : 16-03-1989

Acts Referred:
Orissa Municipal Act, 1850 — Section 131(1)

Citation : (1989) 2 OLR 14

Hon'ble Judges : K.P. Mohapatra, J;G.B. Pattnaik, J

Bench : Division Bench

Advocate : R. Mohanty and N. Patra, for the Appellant; Jayant Das and Additional Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

G.B. Pattnaik and K.F. Mohapatra, JJ.—Though notice of admission and hearing has been issued in this case, but matter hearing the learned Counsel for the Petitioner and the learned Counsel for the State as well as Mr. Das appearing for opposite party No. 1, we do not find any merit in this application for our interference.

2. The Petitioner who had admittedly brought certain country spirit into the limits of Joda Notified Area Council assails the levy of octroi on the same and the point of controversy is whether the excise duty which admittedly the Petitioner had paid prior to the entry of the goods into the municipal limits as well as the transport charges can form the value of the goods within the meaning of Section 131(1)(kk) of the Orissa Municipal Act, which authorise levy of octroi. Section 131(1)(kk) authorise the municipality of the Notified Area Council to levy octroi on goods brought within the limits of a municipality for consumption, use or sale therein. Under the bye-laws of the Notified Area Council, it is a percentage of the value of the goods that is levied as octroi. According to Mr. Patra, the learned Counsel for the Petitioner, the value of the goods would mean the price at which the goods has been purchased and would not include the excise duty paid

thereon as well as the transportation charges. In support of the aforesaid contention, the learned Counsel places reliance on the decision of this Court ill the case of Messrs (sic) Tobacco House v. Municipal Council, Cuttack and Ors. ILR 1977 Cutt. 1. A careful reading of the aforesaid decision itself would negative the contention of the Petitioner. It has been held by this Court in the aforesaid case that in the absence of any definition of the word "value", the said word must be construed and understood in its popular sense which is synchronous with the dictionary meaning and the value at the check-post would mean the entire cost incurred by the owner upto that point of time. If the admitted case of the Petitioner is that the Petitioner had paid the excise duty at the time of its release from the bonded warehouse before its entry into the municipal limits and has also paid the transport charges for bringing the same, there is no substance in the Petitioner?s contention that in assessing the value of the goods, the duty of excise paid and the transport charges incurred shall not be taken into account. As has been stated clearly in the aforesaid Bench decision, the value would mean the entire cost incurred the owner upto the point of entry at the check-post, which obviously would bring within its sweep any excise duty that has been paid by the Petitioner as well as the transport charges paid for bringing the goods. In this, view of the matter, we do not find any infirmity in the demand in question under Annexure-7 and accordingly, this writ application is devoid of merits and is hereby dismissed, but in the circumstances, without any order as to costs.

Appeal dismissed.