

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 2558 OF 2001

MUNICIPAL COUNCIL, GIDDERBAHA

Appellant (s)

VERSUS

COTTON CORPORATION OF INDIA LTD. & ANR.

Respondent(s)

(With office report )

WITH SLP(C) NO. 22271-22276 of 2001

Civil Appeal NO. 2559 of 2001

(With office report)

Civil Appeal NO. 2560 of 2001

(With office report)

SLP(C) NO. 797-798 of 2002

(With appln.for c/delay in filing SLP and with prayer for interim relief  
and office report)

Date: 02/05/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE RUMA PAL

HON'BLE MR. JUSTICE DALVEER BHANDARI

For Appellant(s) Mr. D.P. Singh, Adv.,

Mr. Sanjay Jain,Adv.

Ms. S. Janani, Adv.

Ms. Minakshi Vij, Adv.

Mr. Rajesh Sharma, Adv.

Mr. Sanjiv Sharma, Adv.

Ms. Shalu Sharma

For Respondent(s) Mr. TS Doabia, Sr.Adv.

Mr. S.B. Upadhyay, Adv.

Mr. R.K. Rathore, Sr. Adv.

Mr. M.K. Verma, Adv.

Mr. Arun K. Sinha

Mr. Pardeep Gupta, Adv.

Mr. Suresh Bharti, Adv.

Mr. K.K. Mohan, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted in SLP(C)No.22271-22276/2001. The appeals are dismissed but without any order as to costs.

:2:

In SLP(C)Nos.797-798/2002 delay condoned. Leave granted. The appeals are disposed of.

All other appeals are allowed with no order as to costs.

[ Usha Bhardwaj ]

[ Madhu Saxena ]

Court Master

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Municipal Council, Gidderbaha

...Appellant(s)

Versus

Cotton Corporation of India Ltd. & Anr.

...Respondent(s)

with CA.Nos.2560/ 2001, CA.No.2559/2001, SLP (C)Nos.22271-  
22276/2001 and SLP(C)No.s797-798/2002

O R D E R

SLP(C)Nos.22271-22276/2001:

Leave granted.

This Court in C.A.Nos.4451-68/1991; State of Punjab &

Ors. vs. Naranjan Dass Doomra Rice & General Mills & Ors.

upheld the finding of the High Court to the extent that the

imposition of cess of Urban Development Cess on the sale and

purchase of Kapas (raw cotton), narma and oil seeds was held to

be invalid. In that case the High Court while allowing the writ

petition had directed refund of the cess collected by the Municipal

authorities together with 12% interest per annum. When the

appeals were preferred by way of special leave petitions, this

Court

:2:

granted leave and also directed that in the event it was found that

the writ petitioners/respondents were entitled to return of the

cess collected from them, it would be refunded with interest at

the rate of 12% per annum. Ultimately, when the appeal itself

was dismissed by this Court, by its order dated 25.11.97 this

Court directed the Municipal Authorities to refund to the

respondents/writ petitioners the amount collected from them as

and by way of cess with interest at the rate of 12% per annum

from the dates of collection till the dates of payments.

Taking advantage of the decision striking down the

collection of cess, the appellant filed a writ petition before the

High Court claiming similar orders of refund. The High Court by

the judgment impugned in this appeal dismissed the writ petition

relying on the decision of this Court in Mafatlal Industries Ltd. vs.

Union of India 1997 (5) SCC 536. On the basis of that judgment

the High Court found two grounds on which the appellant's plea

for refund was disallowed. The first ground was that the

appellant had not denied the averments made by the

Municipal

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Authorities that the appellant had already passed on the burden

of development cess to the buyers/consumers. The second

ground on which the writ petition was dismissed was that the writ

petitioner not having independently approached the High Court

challenging the constitutional validity of the cess, could not take

advantage of the directions contained therein. An additional

ground of limitation had been raised by the Municipal Authorities

which was not decided by the High Court in view of its finding on

these two issues.

The factual finding of the High Court on the first ground

clearly shows that this case is squarely covered by the decision

in Mafatlal Industries and the High Court was right in disallowing the writ petition. As far as the direction regarding refund was concerned, although the finding in the decision of State of Punjab vs. Naranjan Dass Doomra Rice & General Mills & Ors. (supra) as to the unconstitutionality of the cess was one which benefited the appellant, nevertheless the direction for refund of the amounts collected was limited strictly to the writ petitioners therein. The appellant cannot take advantage of that particular direction without crossing the hurdle of Mafatlal Industries.

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The appeals are, accordingly, dismissed but without any order as to costs.

C.A.Nos..2558/2001, CA.Nos.2559/2001 & CA.Nos.2660/2001:

In view of the decision in C.A.Nos.4451-68/1991 these appeals are allowed. No order as to costs.

SLP(C)Nos.797-798/2002:

Leave granted.

The appeals are disposed of in terms of the decision in

CA.Nos.4451-68 of 1991.

.....J.

[RUMA PAL]

.....J.

[DALVEER BHANDARI]

New Delhi,

May 02, 2006.