

¶/

C.A.No. 3017 OF 1997

.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp

L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R
L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R

ITEM No.101

COURT No. 1

SECTION XVI

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

Civil Appeal No. 3017 of 1997@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC

State of Punjab & Anr.

Appellants

VERSUS

M/s. Devans Modern Breweries Ltd. & Anr.

Respondents

(With office report)

With S.L.P. (C) Nos. 17085-17086 of 2001.

(With appln.(s) for permission to place addl. documents on record,
prayer for interim relief and office report)

Date : 30/01/2002 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SYED SHAH MOHAMMED QUADRI
HON'BLE MR. JUSTICE U.C. BANERJEE
HON'BLE MR. JUSTICE S.N. VARIAVA
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

For Petitioner(s): Mr. K.K. Venugopal, Sr. Adv.
In CA 3017/1997: Dr. Rajiv Dhavan, Sr. Adv.
Mr. H.S. Phoolka, Sr. Adv.
Mr. H.M. Singh, Adv.
Mr. Anil Hooda, Adv.
Mr. Kuldip Singh, Adv.
Ms. Seema, Adv.
Mr. Rajeev Kumar Sharma, Adv.

In SLP 17085-86/01 Mr. Shanti Bhushan, Sr. Adv.
& Resp. in CA 3017/ Mr. Ashok Desai, Sr. Adv.
97: Mr. R. Venkataramani, Sr. Adv.
Mr. George Poonthottam, Adv.
Mr. Yeshodh Vardhan, Adv.
Mr. M.P. Vinod, Adv.

For Respondent(s): Mr. Shanti Bhushan, Sr. Adv.
In CA 3017/1997: Mr. Ashok Desai, Sr. Adv.
Mr. Mohan Jain, Adv.
Mr. Niraj Seth, Adv.
Ms. Nandini Gore, Adv.

In SLP 17085-86/01: Mr. T.L.V. Iyer, Sr. Adv.
Mr. Ramesh Babu M.R., Adv.
for Mr. K.R. Sasiprabhu, Adv.

UPON hearing counsel the Court made the following
O R D E R

.....L.....I..T.....T.....T.....T.....T.....T.....T.....T.....J
Mr. K.K. Venugopal, learned counsel for the appellants in Civil Appeal No. 3017 of 1997, commenced at 10.40 a.m. and made his submissions till 3.00 p.m. Thereafter, Mr. Shanti Bhushan, learned counsel, made his submissions and was on his legs when the court rose for the day.

The matter remained part-heard.

(T.I. Rajput) (N. Annapurna) (Shelly Sengupta)
Court Master Court Master Court Master

PART-HEARD@@
CCCCCCCCC
ITEM NO.102 COURT NO. 1 SECTION XVI@@
AA

DATE: 31ST JANUARY, 2002@@
CCCCC AAAAAAAAAAAAAAAAAAAAAA

CORAM AND APPEARANCE: AS OF 30TH JANUARY, 2002.@@
CCCCCCCCCCCCCCCCCCCC

.....L.....I..T.....T.....T.....T.....T.....T.....T.....T.....J
Mr. K.K. Venugopal, learned counsel, re-commenced his arguments at 10.45 a.m.

The reference to a Constitution Bench was made on 23rd July, 1998. It is with reference to the question: does trade in liquor enjoy the protection available under Article 301 of the Constitution.

In the course of the argument it was noticed that the principal argument on behalf of the respondents before the High Court, which was upheld by the High Court, was that the import fee, which is the subject matter of these proceedings, had been imposed by the State of Punjab without authority of law. The response on behalf of the State of Punjab before the High Court was that the right of the respondents to import beer into the State was a privilege conferred by the State upon the respondents to which Article 301 had no application because the respondents had no right to trade in liquor de hors that privilege and that the import fee was the@@
CCCCCC

price for the privilege. In the course of the argument before us, we asked Mr. K.K. Venugopal, learned counsel for the State, to tell us what the source of power for the imposition of the import fee was. Mr. Venugopal referred in

reply to Sections 18, 19, 34, 58 and 59 of the Punjab Excise Act, 1914. In other words, the contention of the State before us is that the import fee is a fee and the respondents are required to pay such fee to bring beer into the State.

...3/-

- 3 -

Mr. Venugopal submitted that it was necessary for the State to file a further additional affidavit in support of this case. Mr. Shanti Bhushan, learned counsel for the respondents, fairly, did not oppose the application for an adjournment to file the further additional affidavit.

Four weeks for the State of Punjab to file a further additional affidavit. One week for the respondents to file a response thereto. List after six weeks.

(T.I. Rajput)
Court Master

(Shelly Sengupta)
Court Master