

Supreme Court of India

New Delhi Municipal Committee vs Allied Motors Pvt. Ltd. & Others on 17 October, 1995

Equivalent citations: 1996 AIR 388, 1995 SCC Supl. (4) 150

Author: M Punchhi

Bench: Punchhi, M.M.

PETITIONER:

NEW DELHI MUNICIPAL COMMITTEE

Vs.

RESPONDENT:

ALLIED MOTORS PVT. LTD. & OTHERS

DATE OF JUDGMENT 17/10/1995

BENCH:

PUNCHHI, M.M.

BENCH:

PUNCHHI, M.M.

SINGH N.P. (J)

CITATION:

1996 AIR 388

1995 SCC Supl. (4) 150

JT 1995 (7) 460

1995 SCALE (6) 37

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T Punchhi, J.

This appeal by special leave is directed against the judgment and order dated May 21, 1981 of the High Court of Delhi at New Delhi passed in Letters patent Appeal No.121 of 1973, upturning the decision of a learned Single Judge, as a result of which Civil Writ Petition No.653-D of 1963 stands allowed, and sequally the demand of Advertishment Tax quashed.

The appellant is the New Delhi Municipal Committee. In exercise of its powers under the provisions of Section 188(v) and 199 of the Punjab Municipal Act, 1911, the committee appellant, after following the statutory procedure, framed Bye-laws, providing for the control and regulation of advertisements, which inter alia provided as follows:

"Bye-laws

1. Every person who erects, exhibits, fixes, paints, carries or retains upon or over any land, building, wall, scores, boarding, structure or vehicle any advertisement within the limits of the New Delhi Municipal Committee and as mentioned in the Chief Commissioner's notification No.F.3(56)/56-LSG dated the 23rd January 1958, shall be liable to pay advertisement tax on the same according to the schedule of rates appended to the said notification. This schedule of rates is reproduced in Appendix 'A' to these Bye-laws.

2. No person shall fix up, erect or exhibit any advertisement without paying the entire amount of tax due in advance.

3. xxxxx

4. xxxxx

5. xxxxx

6. xxxxx

7. The Tax shall not be payable on the following categories of advertisements :

(Before 19.2.1971) (After (19.2.71)

(a) Name boards Name boards display- displayed by the ed by the traders on traders on their their own premises own premises provided they do not provided the board contain any item of is purely a name advertisement other board and it does than the name of the not contain any trade that may be item of advertise- carried out at the ment. premises.

(b) xxxxx

(c) xxxxx

(d) xxxxx

(e) Advertisement which relates to the trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein or any sale, entertainment or meeting to be held on or upon or in the same. Provided that exemption under this item shall apply only to one board displayed by the owner or his agent.

(f) Advertisement which relates to the name of the land or building upon or over which the advertisement is exhibited or to the name of the owner or occupier of such

land or building.

(g) xxxxx

(h) xxxxx EXPLANATION - The word advertisement' means any word, letter, model, sign, placard, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or in part for the purpose of advertisement, announcement or direction."

The writ-petitioners before the High Court are the respondents herein. The first respondent M/s. Allied Motors Pvt. Ltd. carries on business of sale, purchase and repairs etc. of motor cars, Lambretta Scooters, and truck chasis and also deals in the sale of Burshane Gas. The second respondent is its Managing Director. The third respondent is an Association of Traders having their business place in the territorial area of the Committee. The Respondent No.1 exhibits eight neon signs boards on its premises, those being:

1. "Allied Motors Private Ltd. " Board being of a paerticular size
2. "Perkings" Board being of a particular size
3. "Perkings" "

- | | |
|----------------|---|
| 4. "R.R. " | " |
| 5. "Bedford" | " |
| 6. "Lambretta" | " |
| 7. "Burshane" | " |
| 8. "Gaskets" | " |

In view of exhibitil on of these nenon-signs, the appellant-Committee rasided a demand raised a demand against the said respondents for payment of advertisement tax. Feeling aggrieved, the respondents moved the High Court of Delhi by was of a writ petition challenging the imposition of tax on a verietiy of grounds. A learned Single Judge, who got to grips with the matter posed three questions for determination, out of whom two relating to the constitutionality of the measure do not survive as they stand dropped, for they were answered against the writ- petitioners by the learned Single Judge and those were not raised again before the Letters Patent Bench. The Third question was as follows:

"Whether the Boards displayed by the Petitioners are not "advertisement" boards but merely sign-boards of the items in which the petitioners deal"

Holding that the boards displyed by the respondents were in the nature of advertisments the learned Single Judge dismissed the writ petition. Before the Letters Patent Bench the third question got subsided and then came to the forefront claim of the respondents for exemption under clauses (a) of Bye Law 7. The Letters Patent Bench accepted the appeal on the interpretaion given by it to clause (a) of Bye-Law 7 to the effect that the boards displayed by the respondents were purely nameboards,

containing no item of advertisement except the trade name of the articles suggested to be offered for sale. This has given rise to this appeal by the Committee as the respondents now stand absolved from payment of tax.

Before we garner our minds to discover how certain advertisements are exempted from taxation, it needs to be priorly accepted that those would be advertisements, as covered and conceived of by Bye-law 1. If the act attracting taxation does not come within the scope of 'advertisement' within the meaning of Bye-law 7 any exemption from payment of tax on exempted advertisements does not arise. But if the act comes within the scope of advertisement, unquestionably and undeniably, then alone can resort be had to bye-law 7 to discover whether the advertisement is such a one to which any exemption can be attracted. It is in this light that we see that Clause (a) of Bye-law 7, provides that tax shall not be payable on nameboard displayed by the traders on their own premises, provided the board is purely a nameboard and it does not contain any item of advertisement. It is plain therefore that it shall initially be an advertisement but would be exempted from taxation if (i) is displayed by a trader, (ii) on his own premises, (iii) purely as a name board as such and (iv) on purity maintained by not containing any other item of advertisement. That is the pre-amended Bye-law with which we are instantly concerned. In contrast Clause (f) specifically takes out advertisements which relate to the name of the land or building upon or over which the name of the land or building upon or over which the advertisement is exhibited or relating to the name of the owner or occupier of such land or building. By process of contrast and exclusion, advertisements so exhibited, which related to the name of the land or building or to the name of its owner or occupier is a category apart and distinct from advertisement by means of nameboards. Even distinct are the advertisements, as conceived of in Clause (e) of Bye-law 7, which relate to the trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein or any sale, entertainment or meeting to be held on or upon or in the same; provided that exemption under this item shall apply only to one board displayed by the owner or his agent. Such being the state of bye-laws, we would be causing violence to the spirit of Clause (a) of Bye-law 7, in splitting the expression "nameboard" into two separate words i.e. name and board and depleting the provision of its intent. Apparently this is a term of art, finding its way to the alleys of law by subordinate legislation. Necessarily, we need to seek help from English dictionaries and cannot go by just impressions. According to The Random House Dictionary of the English language, the expression "name.board" (perhaps hyphenated) means a sign-board that identifies a place or object; it is a name painted, stenciled, etc. on something, as on the side of a ship. (Name + Board). According to Webster's Third New International Dictionary, the word "nameboard" (as one word) is meant as an identifying signboard (as for a station, a shop or a ship) ; also an identifying name displayed (as on the side of a ship) other than on a board. The nameboard (be it called a single word, or combination of two words, or an expression) thus in the English diction a distinct meaning which cannot be mutilated by splitting the same into two separate words of 'name' and 'board', discovering their individual meanings and then tying them up. It would rather be safe to rely on the aforesaid two dictionary meanings to deduce that even though under Clause (a) of Bye-law 7 two words, i.e. 'name' and 'board' are used in succession, what is intended to mean is that these go to make one word or a combined word, in order to exempt advertisement by displaying of the name-board by the trader on his own premises, provided the board is purely a name-board and does not contain any item of advertisement.

Significantly, in the in-built proviso, the word "name-board" in its pristine purity, reflects something more than a board and in that manner distinctive. This adds to our analysis that the words 'name' and 'board' are not separate so as to be given separate meanings and then coalescing them up. Rather, in our view the name-board is one word, as recognised separately, on its own strength, in the dictionaries. And according to those dictionaries, the identifying name so displayed pertains to the place or object, not the name of the trade or the owner. A name-board thus plays the part of the identifier, if the place/premises has a name, by display of such name. To demonstrate and clarify it further, we say that if by means of paint or structural signs an identifying name is engrafted over a building, as an identifying measure, then it is a name board. because becoming a part of the premises it makes the premises self introductory by name.

The case of the respondents being that they use neon- lights to display the names of commodities they sell would fall since those advertisements cannot be called name-boards or even as identifying the name of any object in which the trader was doing his business that being barely barely descriptive of the commodity. It would be more apt to say that the name-board relates to the object and not to the subject. This marked distinction takes out the case of the respondents from seeking exemption under Clause (a) of By- law 7. The Division Bench of the High Court apparently was misled to discover separate meaning of the word 'name' and then of the word 'board' whereafter to put them into a combination, assigning a meaning to 'name-board' as if covering trade description of commodities offered for sale and granted relief to the respondents on that basis. This in our view was a wrong approach leading the judgment to be viewed as a wrong approach leading the judgment to be vulnerable.

The respondents did not claim any exemption under Clause (e) of Bye-law 7. The said provision has been adverted earlier in passing. It is to be seen that advertisement as relating to the trade, profession or business carried on within the land or building upon or over which such advertisement is put are to be exempted. Equally exemption is claimable for such land or building or any effects therein. Like-wise advertisements relating to any entertainment or meeting to be held on or upon or in the same is to be exempted; provided that exemption is valid to the owner or agent for one board. Thus advertisement which has nexus with the trade profession or business would qualify for exemption if relating to the named activities. The respondents succeeded before the Letters Patent Bench of the High Court only on the basis of clause (a) of Bye law 7. The bench when called upon by the present appellant to give favourable interpretation to clause (a) of Bye laws 7 on the basis of clause (e) observed that it appears to them that clause (e) observed that it appears to them that clause (e) would apply to those advertisements which relate (only) to the trade, profession or business or something more than mere name boards. The respondents herein (the appellants there-at) did not build their case on the envil of clause

(e) of Bye laws 7 and any attempt herein, in the absence of the views of the High Court, would negate proper handling. We would therefore leave the matter at that. This course is all the more necessary when there is an amendment in clause

(a) of Bye laws 7 effective from 19-2-1971 whereunder a name-boards remains as such displayable by the traders on their own premises provided they do not add any item of advertisement thereto other

than the name of the trade that may be carried out at the premises. But, as said before, we are concerned with the period prior to that requiring us not to give a positive opinion.

For the foregoing reasons we are of the considered view that the judgment and order of the Latter Patent Bench deserves to be set aside. We accordingly allow this appeal, set aside the same dismissing the civil writ petition of respondent 1 to 3, upholding the demand of advertisement tax. Parties to bear their own costs throughout.