

UNION OF INDIA AND ANR.

A

v.

M/S. OM PRAKASH S.S. AND COMPANY AND ANR.

FEBRUARY 19, 2000

[B.N. KIRPAL AND MRS. RUMA PAL, JJ.]

B

Income Tax Act, 1961

Section 206-C—Explanation—Scope and Interpretation of.

C

Government—Issue of licence to carry on trade—Payment of licence fee does not ipso facto entitle the licensee to lift the goods—For obtaining goods mentioned in the table licensee has to place an order on manufacturer or supplier—It is at that point Section 206-C gets attracted.

Licence issued by government to carry on liquor trade—Section 206-C held not applicable—Licensee does not fall within the concept of buyer—Buyer has to be buyer of goods and not merely a person who acquires a licence to carry on business.

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Words & Phrases

'Buyer'—Meaning of—In the context of Explanation to Section 206-C of the Income Tax Act, 1961.

E

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)
No. 3797 of 2001.

F

From the Judgment and Order dated 22.2.2000 of the Punjab and Haryana High Court in C.W.P. No. 1450 of 2000.

Mukul Rohtagi, Pritesh Kapoor and B.V. Balaram Das for the Appellants.

The following Order of the Court was delivered :

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It is quite evident that Section 206-C of the Income Tax Act, 1961 refers to a case where by reason of the payment to the seller the producer gets specific goods mentioned in the Table to the said Section or gets a right to collect or receive those goods by virtue of that payment. In the instant case,

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- A when the Government issues a licence, it only enables the licensee to carry trade or business in that item. The payment made by the licensee by way of licence fee does not *ipso facto* entitle the licensee to left the goods. For obtaining the goods mentioned in the Table, the licensee has to place an order on the manufacturer or the supplier of the said goods and it is at that point of time that Section 206-C would get attracted.

B

The reliance placed on the explanation to sub-section (11) of Section 206-C is misplaced as is evident from what is stated herein above. "Buyer" would mean where a person by virtue of the payment gets a right to receive specific goods and not where he is merely allowed/permitted to carry on business in that trade. It is for this reason that we had earlier dismissed the special leave petitions and any observations of the High Court not in consonance with this may be not strictly correct but the fact remains that on licences issued by the Government permitting the licensee to carry on liquor trade the provisions of Section 206-C are not attracted as the licensee does not fall within the concept of 'buyer' referred to in that Section. Buyer has to be buyer of goods and not merely a person who acquires a licence to carry on the business.

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Hence the Special leave Petition is dismissed.

T.N.A.

Petition dismissed.