

Before S. S. Sandhwalia, C.J. and S. S. Dewan, J.

CHAMAN LAL JAI KUMAR,—Petitioner

versus

STATE OF HARYANA and another,—Respondents.

Civil Writ Petition No. 1390 of 1975.

March 1, 1979.

Haryana General Sales Tax Act (20 of 1973)—Sections 1(3), 27(1) (a) (ii) third proviso—Punjab General Sales Tax Act (46 of 1948)—Section 5(2) (a) (ii)—Constitution of India 1950—Article 19(1) (f) & (g)—Third proviso to section 27(1) (a) (ii)—Whether violative of Article 19(1)(f) & (g)—Power of assessing authority to determine bona fides of alleged transaction of sale—Whether reasonable—Said proviso—Whether a substantive clause laying down a rule of action by itself—Retrospectivity given to the proviso so as to operate into the predecessor Act—Said Act almost identical to the provisions of the Haryana Act—Such retrospectivity—Whether permissible.

Held, that the broad guideline laid down in the third proviso to section 27(1) (a) (ii) of the Haryana General Sales Tax Act, 1973, cannot be characterised as unreasonable or irrational. In essence it does no more than clothe the assessing authority with the power to examine the genuineness or otherwise of the transactions contained in the return or declaration thereof by an assessee. Therefore, on a plain reading of the said provision, no exception can possibly be taken thereto. It appears to be axiomatic that in a tax return, the authority to whom it is submitted, must inevitably have the right to determine whether the same is factually true or otherwise. Even earlier to the enactment of the third proviso in 1973, it was settled law that the assessing authority had power to go behind the declaration and examine the genuineness of the transactions contained therein. The third proviso far from vesting any uncontrolled and unguided powers in an authority had in a way circumscribed the same by broadly indicating the guidelines for determining the genuineness or otherwise of an alleged transaction of sale. These are in no way exhaustive because of the use of the general words and, in particular, the words 'among other things' would be clearly indicative of the fact that the legislature had not completely constricted the power of

the assessing authority to these guidelines with regard to determining the *bona fides* of the transaction. The criteria laid therein cannot possibly be labelled as extraneous to or irrelevant for the purpose of determining the genuineness or otherwise of a sale. Indeed these are the factors which would plainly and obviously come to one's mind when doubts are raised qua the authenticity of a transaction of sale. The contents of the third proviso are, therefore, wholly reasonable and are merely declaratory of the law as it existed earlier and in fact they have circumscribed the earlier unlimited power to examine the genuineness of sale transaction into canalised guidelines amongst others prescribed now by law. (Paras 5, 6 and 8)

Held, that even though a provision may be couched in the form of a proviso it may in effect really be a substantive section and there may be cases in which the language of the statute may be so clear that a proviso may truly be construed as a substantive clause. Examining the contents of the third proviso to section 27(1) (a) (ii) of the Act it appears to be plain that in substance it clothes the assessing authority with a substantive power of examining the genuineness or otherwise of a sale transaction in the return or the declaration made by the assessee. It lays down a rule of law or action with regard to the examination and determination of the tax liability based on the return aforesaid. It elaborates and without pretending to be exhaustive suggests the guidelines on the basis of which a conclusion regarding the genuineness or otherwise regarding the transaction is to be arrived at. The third proviso is, therefore, in its true essence a substantive clause though couched in the form of a proviso. (Paras 15 and 16)

Held, that the corresponding provision of section 27 of the Haryana General Sales Tax Act, 1973, is section 5(2) of the Punjab General Sales Tax Act, 1948. Though at first sight the provisions of section 5(2) (a) (ii) of the Punjab Act may seem to be somewhat different as compared to section 27(1) (a) (ii) of the Haryana Act, yet a little in-depth examination would show that in essence they are virtually in *pari materia*. Once this is so, it is plain that if the third proviso could operate in the field of section 27(1) (a) (ii) it could with equal facility have identical operative force with regard to the provisions of the predecessor statute of the Punjab General Sales Tax Act as contained in section 5(2) (a) (ii) thereof. (Paras 17 and 18)

Petition under Articles 226 and 227 of the Constitution of India praying that this Hon'ble Court may be pleased to grant the petitioner-firm the following reliefs:—

- (a) to issue a writ of certiorari directing the Respondents to transmit the entire records pertaining to this case to this

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Hon'ble Court with a view to enable it to examine and scrutinise the legality, validity and propriety of the impugned order and after a perusal of the same to quash the impugned order, Annexure 'P. 1';

- (b) *to issue an ex-parte ad-interim stay order staying further proceedings by Respondent No. 2 till the final decision of the Writ Petition ;*
- (c) *to dispense with the service of notices of Motion of this Writ Petition on the respondents since an ex-parte stay order has been prayed for ;*
- (d) *to award costs of this petition to the petitioner firm ;*
- (e) *such other relief as this Hon'ble Court may deem just and expedient on the facts and circumstances of this case to which the petitioner-firm is found entitled may also be granted.*

R. P. Sawhney, Bhagirath Dass, R. N. Narula and D. V. Sehgal,
Advocates, for the Petitioner.

S. C. Mohunta, A. G., Haryana, with B. L. Gulati, Advocate, for
the Respondents.

JUDGMENT

S. S. Sandhawalia, C.J.

(1) The constitutional validity of the third proviso to section 27(1)(a)(ii) of the Haryana General Sales Tax Act, 1973, has been assailed on the ground of its being violative of Article 19(1)(f) and (g) of the Constitution of India in this set of thirty-five connected writ petitions. In addition an equally vehement challenge has been laid to the retrospectivity given to this very provision with effect from the 1st of May, 1949, by section 1(3) of the said Act.

2. As is manifest the issue being pristinely legal the facts pale into insignificance. Indeed the galaxy of the learned counsel hardly referred thereto and it would suffice to make a passing reference to the averments in C.W. 1390 of 1975 (*M/s Chaman Lal Jai Kumar v. Haryana State and others*) in order to provide the factual background. The petitioner-firm therein is engaged in the business of dealing in utensils and foodgrains at Jagadhri in district Ambala and

was duly registered as a dealer under the Punjab General Sales Tax Act, 1948, as applicable to the State of Haryana, and the Central Sales Tax Act, 1956. Whilst filing the necessary sales tax returns the petitioner-firm claimed the statutory deductions available to them under section 5(2)(a)(ii) of the Punjab General Sales Tax Act, 1948, which was then extended to and enforced in the State of Haryana. These included sales to the tune of Rs. 1,40,000 and odd to Messrs Bhagwati Metal Works, Jagadhri, alleged to be a registered dealer under the Act. However, the Assessing Authority by an order dated the 22nd of October, 1971, rejected the aforesaid sales apparently as being not genuine and aggrieved thereby the petitioner-firm preferred an appeal to the Deputy Excise and Taxation Commissioner, Ambala. The latter by his order dated the 25th of September, 1973, upheld the disallowance of the claim to the petitioner-firm except a sum of Rs. 1,40,297/51P. in respect of Messrs Bhagwati Metal Works, but remanded the matter to the Assessing Authority to examine this claim in view of the amended provisions of the law consequent upon the enactment of the Haryana General Sales Tax Act, 1973. Pursuant to the said order, the Assessing Authority then issued a notice to the petitioner-firm requiring them to show cause as to why the deductions in respect of sales to Messrs Bhagwati Metal Works be not disallowed and in the very notice it was pointed out that the recently inserted third proviso to section 27(1)(a)(ii) of the Act would be attracted to the case in view of the fact that retrospectivity had been accorded to the same by the statute with effect from the 1st of May, 1949. In reply to the said notice the petitioner-firm took up various pleas including the one that the third proviso was not attracted to the case and further that the conditions laid therein were impossible of compliance. However, the Assessing Authority,—*vide* order annexure P. 1 held that his enquiry reveals that the sales made to Messrs Bhagwati Metal Works, Jagadhri, were not genuine and disallowing the deductions claimed therefor he re-assessed the petitioner-firm with regard to those sales at the rate of six per cent and directed the recovery of the tax thereon at the amounts calculated. Aggrieved by the aforesaid orders, the petitioner-firm preferred the present writ petition primarily on the constitutional grounds noticed at the very outset.

3. It is obvious that at the very outset it becomes necessary to read the relevant provisions of section 27 of the Act:—

“27(1) In this Act, the expression ‘taxable turnover’ means that part of a dealer’s gross turnover during any period

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which remains after deducting therefrom his turnover during that period—

(a) on account of—

(i) sale of goods specified in Schedule B.

(ii) sales to registered dealers of goods other than the sale of goods specified in Schedule C and of goods liable to tax at the first stage of sale under sections 17 and 18.

Provided * * *

Provided * * *

Provided further that for the purposes of allowing deduction under this clause, the assessing authority or any other person appointed to assist the Commissioner under sub-section (1) of section 3 may examine the genuineness or otherwise of any such sale or declaration with reference, among other things, to the financial position, capacity to make purchases, nature and extent of business, and subsequent disposal of goods by the registered dealer to whom the sale is shown to have been made against declaration;"

It then suffices to point out that by section 1(3) of the Act aforesaid the third proviso quoted above is deemed to have come into force on the 1st of May, 1949.

4. I would first avert to the constitutional challenge laid against the impugned provision. Mr. R. P. Sawhney had been vehement in contending that this proviso places such an utterly unreasonable restriction on the petitioner's fundamental right to hold property and to carry on its business, that it is, palpably violative of the guaranteed freedom under Article 19 of the Constitution. Counsel was eloquent in arguing that the nature of the obligation placed on the registered dealer thereby was so onerous as to be virtually impossible of compliance and, therefore, plainly irrational. It was submitted that the return and the declaration made by the

selling dealer with regard to the sales made to the registered dealers for the purpose of deductions from the taxable turn-over were conclusive and no burden could ever be cast on him with regard to the genuineness thereof in any circumstances whatsoever. It was submitted that the selling dealer could not possibly have any control over the sold goods or the wherewithal to establish the financial and business capacity of the purchaser. Reliance was placed on *Commissioner of I/Tax v. Walchand and Co. (Pvt.) Ltd.* (1), to contend that the reasonableness or otherwise of a provision has to be primarily viewed from the point of view of the trader alone.

5. Whilst there is no quarrel with the legal proposition with regard to the approach as to the reasonableness or otherwise of a restriction on the fundamental right to carry on business and trade, I am unable to see how the broad guideline laid out in the third proviso can be characterised as unreasonable or irrational. In essence it does no more than clothe the assessing authority with the power to examine the genuineness or otherwise of the transactions contained in the return of declaration thereof by an assessee. Therefore, on a plain reading of the said provision, no exception can possibly be taken thereto. It appears to be axiomatic that in a tax return, the authority, to whom it is submitted, must inevitably have the right to determine whether the same is factually true or otherwise. On the other hand, in effect, what is sought to be claimed on behalf of the petitioners, seems to be that the assessing authority should have no right to make any inquiry into the *bona fide* of the transactions or the declarations, howsoever suspicious the circumstances thereof may appear to be. In its actual practical effect, the learned counsel for the petitioners seeks a total and absolute protection of the declaration by the assessing authority of the transactions contained therein, howsoever blatantly bogus they may be. It was said that once a statutory declaration has been filed, the duty of the selling dealer comes to an end and the assessing authority should have no right to go behind that. On the face of it, such an argument does not commend itself to me on principle because it would tend to place a premium on fraud in the case of dealers who may be minded to indulge in the unethical practice of tax-evasion. Consequently, even a plain reading of the provisions of the third proviso does not show even remotely anything unreasonable or irrational therein.

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6. Principle apart, there is considerable content and merit in the argument of Mr. Mohunta that even earlier to the enactment of the third proviso in 1973, it was settled law that the assessing authority had power to go behind the declaration and examine the genuineness of the transactions contained therein. This stand seems to be more than amply borne out by all the judgments prior to 1973. Now it is not in dispute that the corresponding provisions of section 27 of the Haryana Act of 1973 and in the preceding statute of the Punjab General Sales Tax Act 1948 are those of section 5(2). It is further the admitted position that prior to 1973, section 5(2) of the Punjab General Sales Tax Act had been extended to the State of Haryana and even earlier thereto was applicable to the erstwhile State of Punjab which included the territories of Haryana. Construing the said provisions a Division Bench of this Court in *Ram Pal Madan Gopal v. Punjab State and another*, (2), has held in no uncertain terms that whilst a declaration under section 5(2)(a)(ii) of the Punjab General Sales Tax Act read with rule 26 was *prima facie* proof that the sales have been made to the registered dealers, but the Sales Tax Authorities can refuse to allow the deduction if there is evidence that the sales are not genuine. This view consistently held the field and was reiterated in *Pahar Chand & Sons v. The State of Punjab* (3) and again in *Devinder Kumar Kewal Kumar v. The State* (4), wherein it was categorically observed as follows :—

* * * * It is of course open to the assessing authority to come to a conclusion on proper evidence that the transactions were not genuine but no such finding can be reached from the circumstances of the cancellation of any registration certificate of a purchaser subsequent to the transaction in respect of which deduction is claimed."

It is thus patent that the aforesaid enunciation of law has never been deviated from and even when pressed learned counsel for the petitioners Mr. R. P. Sawhney could cite no authority which had taken a contrary view. Therefore the bald assertion on behalf of the petitioners that the return and the declaration filed by the selling dealer should be treated as sacrosent and conclusive rests neither

(2) (1968) 22 S.T.C. 79.

(3) (1972) 30 S.T.C. 211.

(4) (1972) 30 S.T.C. 352.

on principle nor on authority. It is manifest from the judgments cited above that under section 5(2) of the Punjab General Sales Tax Act which is closely analogous to, if not in *pari materia* with section 27 it had been invariably held that the power undoubtedly vested in the assessing authority to determine the *bona fide* of an alleged transaction of sale.

7. Once that is so, it is evident from the plethora of precedent that the assessing authority had always been clothed with the power to go into the genuineness or otherwise of the transactions contained in the return and the declaration. There has never been a hint of dissent that such a power was either irrational or so unguided as to be hit by Article 19. Implicitly, therefore, the earlier authorities are a warrant for the proposition that the power to go behind a transaction to determine its authenticity vested in the assessing authority is both reasonable and well sanctioned by law.

8. On these premises it is then evident that the corollary of Mr. Mohunta's submission must also be accepted. He was forthright in contending that the third proviso to section 27 in terms was no more than declaratory of the law as it stood before the enactment of the 1973 Act. In effect it had only made explicit what was earlier implicit in the provision and had been so declared by precedent. Indeed counsel was on plausible ground in contending that the third proviso far from vesting any uncontrolled and unguided powers in authority had in a way circumscribed the same by broadly indicating the guidelines for determining the genuineness or otherwise of an alleged transaction of sale. These are in no way exhaustive because of the use of general words, and, in particular, the words 'among other things' would be clearly indicative of the fact that the legislature had not completely constricted the power of the assessing authority to these guidelines with regard to determining the *bona fides* of the transaction. The four guidelines laid therein are—

- (a) financial position of the purchaser ;
- (b) his capacity to make the purchase;
- (c) the nature and extent of the business; and
- (d) subsequent disposal of goods by the purchasing registered dealer.

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Now it appear to me that the aforesaid criteria cannot possibly be labelled as extraneous to or irrelevant for the purpose of determining the genuineness or otherwise of a sale transaction. In deed these are the factors which would plainly and obviously come to one's mind when doubts are raised *qua* the authenticity of a transaction of sale. In my view, therefore, Mr. Mohunta, learned Advocate General, appears to be wholly correct in contending that the contents of the third proviso are wholly reasonable and are merely declaratory of the law as it existed earlier and in fact they have circumscribed the earlier unlimited power to examine the genuineness of a sale transaction into canalised guidelines amongst others prescribed now by law.

9. Before closing this aspect of the case it deserves particular mention that Mr. Bhagirath Das learned counsel for some of the petitioners other than those represented by Mr. R. P. Sawhney had with his usual forthright candour conceded that he could not even remotely challenge the constitutionality or the prospective operation of the impugned third proviso to section 27 of the Act. Learned counsel fairly took the stand that the genuineness of a transaction was open for examination by the Assessing Authority even before the enactment of the third proviso and no bar could possibly be placed in the way of so salutary a provision.

10. I, therefore, conclude on this aspect that the vice of unreasonableness does not even remotely attach to the third proviso to section 27(1)(a)(ii) and the same is constitutionally valid.

11. Now adverting to the second aspect of this case the challenge to the retrospectivity of the third proviso has been eloquently presented by Mr. Bhagirath Das. Herein the basically impugned provision is section 1(3) of the Act whereby the third proviso has been enacted with effect from 1st of May, 1949, which apparently is the date of the original promulgation of the Punjab General Sales Tax Act of 1948.

12. Now herein the core of Mr. Bhagirath Das's argument is that the third proviso is in sum and substance a qualifying clause to section 27(1)(a)(ii). That being so, it was contended that whilst section 27 has itself not been given retrospective effect by the Act, the proviso, therefore, cannot by itself be clothed with retrospectivity. In a rather picturesque language it was argued that the

third proviso could not operate in a vacuum prior to the 1st of May, 1973, because admittedly the provisions of section 27 have no force prior thereto. To put it in other words, the submission was that as a usual canon of construction a proviso to the section is invariably a limb or part of the main clause and in the absence of the main clause it cannot stand by itself and, therefore, cannot possibly be operative at a period of time prior to the enactment of the primary clause.

13. At the first flush the argument does seem to have a content of plausibility but a close and deeper analysis thereof would show that in essence and the more so in the peculiar context herein it rests more on the ingenuity of counsel rather than a sound legal or factual foundation. The contention deserves examination from a twin angle and the first one is with regard to the very nature and content of the third proviso.

14. With his illimitable fairness, Mr. Bhagirath Das had himself conceded that if a proviso is in effect or in sum and substance a substantive clause then there is no legal bar in its standing by itself and having independent statutory force. Once that is so, it was conceded that like any other statutory provision it could be given retrospectivity if the legislature has the competence to do so. Therefore, in this context the first and the primary question that arises for determination is whether the third proviso is in its true essence a substantive clause which lays down rule of action by itself or is it merely an addendum to the principal clause.

15. Since the issue is covered by a precedent of the final Court, it is unnecessary to examine it on principle. In the *Commissioner of Income-tax, Madras v. The Ajax Products Ltd.* (5), it was held that even though a provision may be couched in the form of a proviso it may in effect really be a substantive section and there may be cases in which the language of the statute may be so clear that a proviso may truly be construed as a substantive clause.

16. In view of the above the issue narrows down to this whether the third proviso is merely a qualifying clause or is virtually a substantive provision of the statute. Now examining its contents it appears to be plain that in substance it clothes the Assessing Authority with a substantive power of examining the

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genuineness or otherwise of a sale transaction in the return of the declaration made by the assessee. It lays down a rule of law or action with regard to the examination and determination of the tax liability based on the return aforesaid. It elaborates and without pretending to be exhaustive suggests the guide lines on the basis of which a conclusion regarding the genuineness or otherwise regarding the transaction is to be arrived at. The third proviso is, therefore, in its true essence a substantive clause though couched in the form of a proviso. It perhaps was merely the fancy of the draftsman, who has chosen to name it as a proviso though undoubtedly such as a provision could and perhaps should stand by itself. As the counsel had earlier rightly pointed out that the same power of examining the genuineness of a transaction was vested in the Assessing Authority by virtue of Judge made law in an unbroken line of precedent, the proviso when enacted in 1973 has done no more than concretize and give explicit shape to the principle laid out earlier by precedent. Therefore, it cannot be reasonably said herein that the third proviso is merely a limb or addition or substraction of the earlier clause or that its very nature is such that it cannot stand independently. In fact it appears on the contrary that in essence it is a positive clause. Learned counsel for the respondents has rightly pointed out that if it were to be labelled with a trifling modification of the language or Section 27(1)(a)(ii), neither its contents nor its effect would in any be affected. It could, therefore, stand either as an independent sub-clause to clause (1) of Section 27 or for that matter can with equal facility be couched in a full-fledged clause. I would, therefore, hold that the third proviso in effect is a substantive clause though in the words of their Lordships of the Supreme Court couched in the form of a proviso and could have independent operative effect as a substantive provision under the statute. Consequently the very core of the attack against its retrospectivity is conclusively repelled.

17. In the alternative, it has then to be seen whether the third proviso in its retrospectivity can operate inevitably on the corresponding provisions of the Punjab General Sales Tax Act, which admittedly is the predecessor statute of the Haryana General Sales Tax Act, 1973. It is not in doubt that prior to the 1973 Act, the Punjab General Sales Tax Act held a sway over the territories which now constitute the State of Haryana from 1949 onwards. The question, therefore, is whether the third proviso can

with equal facility fit in the corresponding provisions of the predecessor statute, i.e., the Punjab General Sales Tax Act, 1948. Herein again the matter appears on a closer analysis to be singularly free from any difficulty. It is not in dispute that the corresponding provision of Section 27 of the Haryana General Sales Tax Act, is Section 5(2) of the Punjab General Sales Tax Act. Though at first sight the provisions of Section 5(2)(a)(ii) of the Punjab General Sales Tax Act may seem to be somewhat different as compared to Section 27(1)(a)(ii) of the Haryana General Sales Tax Act, yet a little in-depth examination would show that in essence they are virtually in *pari materia*. In order to facilitate the point, it would be worthwhile to juxtapose these provisions against each other in order to highlight their similarity and indeed virtual identity:—

*Section 5(2) of the Punjab
General Sales Tax Act, 1948*

5(2) In this Act the expression "taxable turnover" means that part of a dealer's gross turnover during any period which remains after deducting therefrom—

(a) his turnover during that period on—

- (i) the sale of goods declared tax-free under section 6.
- (ii) sales to a registered dealer of goods other than sale of goods liable to tax at the first stage under sub-section (1) (A); declared by him in a prescribed form as being intended for resale in the State of Punjab or sale in the course of Inter-State trade or commerce or sale in the

*Section 27(1) of the Haryana
General Sales Tax Act, 1973.*

27. (1) In this Act, the expression "taxable turnover" means that part of a dealer's gross turnover during any period which remains after deducting therefrom the turnover during that period—

(a) on account of—

- (i) sale of goods specified in Schedule B;
- (ii) sales to registered dealers of goods other than the sale of goods specified in Schedule C and of goods liable to tax at the first stage of sale under Sections 17 and 18.

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*Section 5(2) of the Punjab
General Sales Tax Act, 1948.*

*Section 27(1) of the Haryana
General Sales Tax Act, 1973.*

course of export of goods out of territory of India or of goods specified in his certificate of registration for use by him in the manufacture in Punjab of any goods, other than goods declared tax-free under section 6, for sale in Punjab or sale in the course of export out of the territory of India and on sales to a registered dealer of containers or other materials for the packing of such goods.

18. Now examining the aforesaid provisions by comparison, the apparent dis-similarity in language first pertains to the reference to Schedule B in Section 27(1)(a)(i) of the Haryana Act, whilst the corresponding reference is to Section 6 in the Punjab General Sales Tax Act. However, even a cursory reference to Section 6 of the Punjab General Sales Tax Act, 1948, would show that the tax-free goods therein are specified in the first column of Schedule B to the said Act, which is more or less common to both the statutes. Similarly the disparity in the language used in Section 5(2)(a)(ii) of the Punjab General Sales Tax Act and Section 27(1)(a)(ii) of the Haryana Act is completely explained when a reference is further made to Sections 17 and 18 of the Haryana Act. A mere glance on the provisions of Section 18 of the Haryana Act would make it manifest that these in substance correspond exactly to what was laid down in sub-section 1(A) of Section 5 of the Punjab General Sales Tax Act, to which reference has been made in section 5(2)(a)(ii). A corresponding similarity between the provisions of section 17 is then evident with the matching provisions thereof in the Punjab General Sales Tax Act, 1948. When confronted with this plain similarity even Mr. Bhagirath Das was fair enough to concede that

the provisions are in effect and virtually in *pari materia*. Once this is so, it is plain that if the third proviso could operate in the field of section 27(1)(a)(ii), it could with equal facility have identical operative force with regard to the provisions of the predecessor statute of the Punjab General Sales Tax Act as contained in section 5(2)(a)(ii) thereof. Consequently on this score as well the challenge to the retrospectivity of the provision is to be repelled.

19. No other point has been raised. Both the basic contentions on behalf of the petitioners having been rejected all the writ petitions are without merit and are hereby dismissed. The parties, will however, be left to bear their own costs.

H.S.B.

Before J. M. Tandon, J.

HINDUSTAN WIRE PRODUCTS LTD., PATIALA,—*Petitioner.*

versus

PUNJAB GOVERNMENT *and others*.—*Respondents.*

Civil Writ Petition No. 1401 of 75.

March 16, 1979.

Punjab Municipal Act (III of 1911)—Sections 5(1) and (3)—Punjab Gram Panchayat Act (IV of 1953)—Section 4(2)—Notification under Section 5(1)—Object of—Stated—State Government—Whether must always determine mode of publication in “such other manner” as required by section 5(1)—Areas sought to be included in municipal area already forming part of Gram Sabha—Exclusion of such area from Gram Sabha by notification under Section 4(2) of the Gram Panchayat Act—Whether a necessary pre-requisite before its inclusion in the municipal area.

Held, that the object of publication of the declaration of the intention of the Government in the official gazette and otherwise through notification under Section 5(1) of the Punjab Municipal Act, 1911, is to apprise the people about the proposal of the Government to include the area within the municipal limits so that they may, if so desired, file objections to be considered by the Government before making the final notification under Section 5(3) of the Act including