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SLP(C)... 947 OF 2001

REVISED@@
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ITEM No.19

Court No. 3

SECTION IIIA

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

Petition(s) for Special Leave to Appeal(Civil)...CC 947/2001

(From the judgement and order dated 22/02/2000 in CWP 1450/00
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

UNION OF INDIA & ANR.

Petitioner (s)

VERSUS

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

Respondent (s)

With I.A. No. 1 (C/delay in filing SLP)
(With Office Report)

Date : 19/02/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MRS. JUSTICE RUMA PAL

For Petitioner (s) Mr. Mukul Rohtagi, ASG.
Mr. Pritesh Kapoor, Adv.
Mr. B.V. Balaram Das, Adv.

For Respondent (s)

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

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.SP2
The Special Leave Petition is dismissed in terms of
the reportable order.

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Kalyani. (ASHA JOSHI) @@
AA
COURT MASTER@@
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(Signed reportable order is placed on file.)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) NO. 3797 OF 2001@@
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Union of India & Anr. Appellants

Versus

M/s Om Prakash S.S. & Company & Anr. Respondents

O R D E R@@
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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, 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@@
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entitle the licensee to lift 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.

The reliance placed on the explanation to sub-section (11) of Section 206-C is misplaced as is
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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.

Hence the Special Leave Petition is dismissed.

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.....J
(B.N. KIRPAL)

New Delhi,
February 19, 2001.

.....J
(RUMA PAL)