CNR No: PHHC010963752026
2026:PHHC:134264-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-17189 of 1995
MUNICIPAL COUNCIL, NANGAL **....Petitioner**

Versus

STATE OF PUNJAB & OTHERS
....Respondents

CWP-17601 of 1995
M/S NATIONAL FERTILIZERS LIMITED
....Petitioner

Versus

STATE OF PUNJAB & OTHERS
....Respondents

1	The date when the judgment is reserved	04.08.2026.
2	The date when the judgment is pronounced	18.09.2026
3	The date when the judgment is uploaded	18.09.2026
4	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5	The delay, if any of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present: Mr. Vishal Aggarwal, Advocate
for the petitioner in CWP-17601 of 1995
and Respondent No.3 in CWP-17189 of 1995.

Mr. Kamaldeep Singh Sidhu, Advocate
for petitioner in CWP-17189 of 1995
and Respondent No.3 in CWP-17601 of 1995

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RUPINDERJIT CHAHAL, J.

1. The two petitions are directed against the order dated 30.05.1995 passed by the Secretary to Government of Punjab, Department

of Local Government, Chandigarh. CWP-17189 of 1995 has been filed by Municipal Council, Nangal (hereinafter referred to as 'the Municipal Council') whereas CWP-17601 of 1995 has been filed by M/s National Fertilizers Ltd, Nangal Unit through its Executive Director (hereinafter referred to as 'the Company'). Since both the petitions are against the same order, hence these are decided by this common order.

2. The facts, in brief, are that M/s National Fertilizer Limited, a company incorporated under the Companies Act, had set up its factory at Naya Nangal, in the district of Ropar, and was engaged in the production of fertilisers. On 17.04.1984, the Municipal Council issued a supplementary assessment order in respect of an Ammonia Gas Storage Tank, which was stated to be under construction, and directed the Company to intimate the total cost of the same and also furnish information regarding the month and year of its completion. In response to the aforesaid communication, the Company, vide letter dated 23.05.1984, informed the Municipal Council that the total capital cost of the Ammonia Gas Storage Tank was ₹1,51,88,006/- and that the same had been completed on 02.02.1982. On 04.05.1984, the Municipal Council had informed the Company that, under Section 3(c) of the Punjab Municipal Act, 1911 (hereinafter referred to as “the Act”), the rental value, calculated at the rate of 5% of the capital cost, was assessed at ₹7,59,400/- for the purpose of levy of tax on land and buildings. After allowing a rebate of 10% towards the cost of repairs and maintenance of the building, the net annual rental value was assessed at ₹6,83,460/-. Applying the house tax at

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the rate of 15% of the rental value, the amount of tax was assessed at ₹1,02,519/- per annum. It was further stated that, since the Ammonia Gas Storage Tank had been completed on 02.02.1982, the same was assessable to house tax for the years 1982-83, 1983-84 and 1984-85. Accordingly, notices under Sections 65 and 67 of the Act were issued and objections to the aforesaid valuation and assessment were invited within a period of thirty days. The Company filed its objections on 28/29.05.1984, challenging the levy of tax on the ground that the Ammonia Gas Storage Tank was, in fact, an Ammonia storage facility installed within the Plant and formed an integral part of the Plant and Machinery and, therefore, was not liable to be assessed for the purpose of levy of house tax.

3. The Municipal Council kept silent on the objections and, on 13.06.1988, after a lapse of about four years, issued a supplementary assessment of tax on land and buildings for the year 1988-89. Notice under Section 73 of the Act was also issued, requiring the Company to file its reply and furnish the requisite information within a period of 15 days. The Company filed its reply on 28.06.1988 to the said notice, informing the Municipal Council that there had been no change and that the information regarding the capital cost of the building had already been furnished vide letter dated 28.06.1988. Thereafter, the Municipal Council again issued notice under Section 67(1) of the Act and on 25.02.1989, the Company once again filed objections to the said notice in respect of the assessment of house tax on the Ammonia Gas Storage Tank. Vide letter dated 09.03.1989, the Company produced the necessary documents in support of

its objections against the levy of house tax on the Ammonia Gas Storage Tank.

4. The then Deputy Commissioner, Ropar, exercising the powers of the President, Notified Area Committee, Nangal, vide order dated 16.07.1990, assessed the annual rental value of the Ammonia Gas Storage Tank at ₹6,83,460/- for the purpose of levy of house tax. The said order, along with the demand notice dated 18.07.1990, demanding a sum of ₹9,22,671/- towards tax on land and buildings for the years 1982-83 to 1990-91, was served upon the Company on 23.07.1990. The Municipal Council again issued a notice under Section 80(2) of the Act, determining the annual rental value of the Ammonia Gas Storage Tank at ₹10,25,190/- for the year 1991-92. The Company preferred an appeal before the Secretary to Government of Punjab, Local Government Department, against the demand notice and also moved an application for stay. However, no stay was granted and, consequently, the Company deposited the demanded amount under protest. Thereafter, another demand notice for the year 1992-93 was issued, whereupon the Company again deposited the demanded amount under protest. Vide order dated 30.09.1992, the Secretary to Government of Punjab dismissed the appeals preferred by the Company and upheld the assessment order dated 16.07.1990 passed by the Deputy Commissioner, Nangal. Aggrieved by the said order, the Company challenged the same by way of CWP No. 414 of 1993 before this Court and also filed another petition, being CWP No. 7730 of 1993, in respect of the tax demand dated 31.05.1993. The aforesaid petitions came up for

hearing before this Court on 19.09.1994. After hearing the parties, this Court allowed the petitions and directed the appellate authority to decide the matter afresh, taking into consideration the material available on record and, if necessary, calling upon the Company to produce a copy of the order dated 16.07.1990. The parties, through their respective counsel, were directed to appear before the appellate authority on 10.10.1994. The appellate authority heard the parties at length and passed the impugned order dated 30.05.1995, whereby it was held that the assessment and levy of house tax in respect of the Ammonia Gas Storage Tank of the Company by the Municipal Council, Nangal, for the period from 1982-83 to 1989-90, being retrospective in nature, was not permissible under the provisions of law. However, the assessment for the period from 1991-92 to 1994-95 was held to be valid. It was further directed that the amount already deposited by the Company be adjusted towards the tax payable for the subsequent years instead of refunding the same to the Company. Hence, the present petitions.

5. Learned counsel for the Company submits that the impugned assessment is wholly without jurisdiction, as the Ammonia Gas Storage Tank is not a building but an integral part of the plant and machinery forming part of the ammonia manufacturing process. It is contended that the tank is specially designed for the storage and controlled withdrawal of ammonia and is equipped with refrigeration machinery, compressors and pressure-control systems, which operate continuously and require round-the-clock supervision. It is, therefore, submitted that the Ammonia Gas

Storage Tank constitutes an active component of the manufacturing system and is not merely a structure in which machinery is housed. Learned counsel further contends that the mere fact that the storage tank is permanently erected on the land and involves substantial civil construction cannot be determinative of its legal character for the purposes of levy of house tax. According to learned counsel, the authority was required to examine the true nature, function and purpose of the installation. It is further submitted that the entire capital cost of ₹1,51,88,006/- could not have been adopted as the value of the building without excluding the value attributable to the plant, machinery, refrigeration equipment, compressors and other specialised installations.

6. Learned counsel for the Company relies upon ***New Manek Chowk Spinning & Weaving Mills Co. Ltd. v. Municipal Corporation of the City of Ahmedabad, (1967) 2 SCR 679***, wherein the Hon'ble Supreme Court held that Entry 49 of List II of the Seventh Schedule to the Constitution authorises taxation of lands and buildings and not of plant and machinery merely because such machinery is situated upon or attached to the land or building. The said principle was reiterated in ***Anant Mills Co. Ltd. v. State of Gujarat, (1975) 2 SCC 175***. It is, therefore, submitted that the Municipal Authority cannot achieve indirectly what could not be done directly by the State Legislature. Learned counsel further submits that the decision of the Hon'ble Supreme Court in ***Government of Andhra Pradesh v. Hindustan Machine Tools Ltd., (1975) 2 SCC 274***, does not advance the case of the Municipal Council. In that case, the levy was

upheld as a tax on the factory building and the applicable statutory provisions expressly excluded machinery and furniture from the assessment. The judgment, therefore, recognises the distinction between a taxable building and non-taxable machinery. In the present case, according to learned counsel, the respondents have failed to maintain this distinction and have treated the entire Ammonia Gas Storage installation as a building merely by adopting its capital cost for the purpose of assessment.

7. Learned counsel for the Company further submits that Section 3(c) of the Act cannot be interpreted in a manner so as to enlarge the constitutional field of taxation under Entry 49 of List II of the Seventh Schedule to the Constitution. The method prescribed for determining the annual rental value cannot be utilised to bring Plant and Machinery within the taxable value of land or buildings. It is submitted that, at the very least, the value of machinery and specialised equipment was required to be excluded while determining the assessable value attributable to the civil structure, if any.

8. It is also submitted that the assessment for the subsequent years could not have been sustained merely by carrying forward the earlier assessment, particularly when the foundational assessment itself had been disputed and its legality was under challenge. According to learned counsel, the liability for each subsequent year was required to be determined in accordance with the statutory procedure applicable thereto. The authority, therefore, erred in treating the subsequent assessments as a mere continuation of the earlier determination without examining the

specific objections raised by the Company in respect of the Ammonia Gas Storage installation.

9. Learned counsel accordingly submits that the impugned levy, being, in substance, a tax upon Plant and Machinery rather than upon land or buildings, is beyond the legislative competence of the respondents and is, therefore, liable to be quashed. Consequently, the amount recovered from the Company pursuant to such illegal assessment cannot be retained by the respondents merely by directing its adjustment against the tax payable for future years.

10. It is, therefore, prayed that the impugned order dated 30.05.1995, insofar as it sustains the assessment and levy of house tax upon the Ammonia Gas Storage installation for the period from 1991 onwards, be set aside and the respondents be directed to grant consequential relief to the petitioners in accordance with law.

11. Learned counsel appearing for the Municipal Council submits that the learned appellate authority erred in law in treating the assessment for the period from 1982-83 to 1989-90 as a retrospective levy and, on that basis, holding the same to be impermissible. It is submitted that the assessment did not create any new liability for a past period; rather, it merely determined the House Tax liability in respect of an existing taxable property, which had already been completed and had become assessable with effect from 02.02.1982.

12. It is submitted that the Ammonia Gas Storage Tank was admittedly completed on 02.02.1982 and the Company itself furnished its capital cost and date of completion to the Municipal Council. Thus, the taxable property existed during the assessment years in question. The subsequent assessment proceedings were only for the determination and quantification of the liability which had accrued in respect of the said property and cannot, merely because the assessment was completed subsequently, be characterised as an impermissible retrospective imposition of tax. Learned counsel further submits that the Company had been duly served with notices under the relevant provisions of the Act, and was afforded an opportunity to file its objections. The Company, in fact, submitted detailed objections in May 1984 and again in February/March 1989. The delay in final determination by the Municipal Council could not extinguish the tax liability attached to the property. At the highest, the question could be whether the assessment had been completed in accordance with the prescribed procedure; the mere lapse of time, by itself, could not convert an otherwise lawful assessment into a retrospective levy.

13. It is further submitted that the assessment order dated 16.07.1990 was passed after considering the objections and the material placed on record by the Company. The demand raised pursuant thereto related to the tax legally attributable to the period during which the Ammonia Gas Storage Tank existed and was assessable. The assessment, therefore, cannot be equated with a fresh levy imposed with retrospective operation. The distinction between retrospective imposition of a tax and a

subsequent assessment or quantification of an existing tax liability is material and, according to learned counsel, has not been properly appreciated by the appellate authority.

14. Learned counsel submits that the appellate authority, having accepted the Company's liability to pay House Tax for the subsequent years, could not, without examining the statutory scheme governing assessment, invalidate the assessment for the earlier period solely on the ground that the assessment had been made subsequently. The relevant consideration, according to learned counsel, is whether the property was taxable during the years in question and whether the statutory authority possessed the power to assess the tax in respect thereof.

15. As regards the nature of the property, learned counsel submits, in the alternative, that the levy is a tax upon the taxable land and building and not upon the machinery as such. The Ammonia Gas Storage Tank is a permanent installation forming part of the immovable property of the Company. The mere fact that compressors, refrigeration equipment and other machinery are associated with or form part of the installation does not, by itself, take the entire installation outside the scope of House Tax. Learned counsel further submits that the Company itself furnished the capital cost of ₹1,51,88,006/- and the date of completion of the Ammonia Gas Storage Tank. On the basis of the information furnished by the Company, the annual rental value was determined under Section 3(c) of the Act after allowing the permissible rebate, and the prescribed rate of House Tax was thereafter applied. The assessment was thus made in

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accordance with the statutory method and did not constitute an independent levy upon the machinery. The reliance placed by the Company upon ***New Manek Chowk Spinning and Weaving Mills Co. Ltd.(supra)*** is according to learned counsel, misplaced. The said decision concerned the permissibility of taxing plant and machinery as such under Entry 49 of List II of the Seventh Schedule to the Constitution. The present case, however, concerns the assessment of a permanent taxable structure by determining its annual rental value. The Company cannot claim complete exemption from House Tax merely because the structure is utilised as an integral part of its manufacturing process. Likewise, it is submitted that the decision in ***Hindustan Machine Tools Ltd.(supra)***, recognises that a building does not cease to be a building merely because it is used for industrial or manufacturing purposes. The Municipal Council is not seeking to impose a separate tax upon the compressors or refrigeration machinery. The levy is upon the taxable property in accordance with the provisions of the Act.

16. Learned counsel further submits that the assessment for the subsequent years could validly proceed on the annual rental value already determined, particularly when there had been no material change in the property. The mere description of the assessment as having been carried forward from year to year does not render the same illegal. The Company continued to own and use the same installation, and no fresh circumstance was shown which required alteration of the existing basis of assessment.

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17. Learned counsel accordingly submits that the principal error committed by the appellate authority lies in confusing the date of assessment with the period to which the tax liability relates. The fact that the assessment was finalised subsequently does not, by itself, make the levy retrospective. The liability related to the years during which the taxable property existed, and the assessment proceedings merely quantified that liability in accordance with law. It is, therefore, submitted that the finding of the appellate authority that the assessment for the period from 1982-83 to 1989-90 was retrospective and, consequently, impermissible, is unsustainable. The assessment made by the Municipal Council was in respect of an existing taxable property and an existing statutory liability. The impugned order, to that extent, deserves to be set aside and the assessment for the said period be restored. Consequently, the writ petition filed by the Municipal Council deserves to be allowed to the extent it challenges the setting aside of the assessment for the years 1982-83 to 1989-90, whereas the Company's challenge to the assessment for the subsequent period is liable to be rejected.

18. We have heard learned counsel for the parties and have perused the record. The following questions arise for consideration in the present petitions:

(i) Whether the Ammonia Gas Storage Tank in question constitutes a building or other taxable structure within the meaning of the Act, or whether, in substance, it forms an integral part of the plant and machinery of the petitioners' Ammonia manufacturing plant and is, therefore, not liable to House Tax?

(ii) In the event the Ammonia Gas Storage Tank is held to constitute a taxable building or structure, whether the Municipal Council was justified in determining its annual rental value on the basis of its entire capital cost of ₹1,51,88,006/- without excluding the value attributable to the machinery, compressors, refrigeration equipment and other specialised installations?

(iii) Whether the assessment and levy of House Tax for the period from 1982-83 to 1989-90, pursuant to the assessment order dated 16.07.1990, amounts to an impermissible retrospective levy, or whether it constitutes a subsequent assessment and quantification of an existing statutory liability in respect of a property which had become assessable with effect from 02.02.1982?

(iv) Whether the Municipal Council could validly assess and recover House Tax for the aforesaid period when the Company had submitted its objections in 1984 and the final assessment was made only on 16.07.1990, and whether the delay in finalising the assessment renders the same without jurisdiction or otherwise illegal?

(v) Whether the assessment for the subsequent years, particularly for the period from 1991-92 to 1994-95, could validly be continued or carried forward on the basis of the annual rental value already determined, without undertaking a fresh assessment in accordance with the prescribed statutory procedure?

(vi) Whether the impugned order dated 30.05.1995 passed by the appellate authority, insofar as it sets aside the assessment for the period from 1982-83 to 1989-90 while upholding the assessment for the period from 1991-92 to 1994-95, suffers from any error of law warranting interference by this Court in exercise of its writ jurisdiction?

(vii) What consequential relief, if any, are the parties entitled to in respect of the amounts already deposited by the Company towards the disputed House Tax?

19. The first and foremost question that arises for consideration is as to the true nature and character of the Ammonia Gas Storage Tank. The material placed on record shows that the Company had established the Ammonia Gas Storage Tank as an integral part of its Ammonia manufacturing process. The installation was not merely a conventional building or storage shed in which manufactured products were kept. It was a specialised installation designed for storing ammonia under controlled conditions and was equipped with refrigeration machinery, compressors and pressure-control arrangements, requiring continuous operation and round-the-clock supervision. The mere fact that the installation was permanently erected upon the land or involved substantial civil construction cannot, by itself, be determinative of its legal character. The Court is required to examine the substance, function and purpose of the installation. In the present case, the Ammonia Gas Storage Tank was

functionally integrated with the Ammonia manufacturing plant and was necessary for the storage and controlled withdrawal of excess ammonia for its subsequent use in the urea plant and other units. Its utility and function were, therefore, intrinsically connected with the manufacturing process.

20. Section 3(2) of the Act defines "building" as "*any shop, house, hut, outhouse, shed or stable, whether used for the purposes of human habitation or otherwise, and whether of masonry, bricks, wood, mud, thatch, metal or any other material whatsoever, and includes a wall and a well*".

21. The distinction between a building which merely houses Machinery and an installation which itself forms part of the manufacturing apparatus is material. In the present case, the Ammonia storage facility, together with its associated refrigeration and compression systems, performed an active industrial function and constituted an integral component of the manufacturing process. It cannot, therefore, be treated merely as an ordinary building or warehouse for the purpose of levy of House Tax. The decision of the Hon'ble Supreme Court in ***New Manek Chowk Spinning and Weaving Mills Co. Ltd.(supra)***, also assumes significance in this context. The constitutional power under Entry 49 of List II of the Seventh Schedule extends to taxation of lands and buildings and does not authorise taxation of plant and machinery merely because the same is situated upon or attached to land or a building. The said principle was reiterated by the Hon'ble Supreme Court in ***Anant Mills Co. Ltd.(supra)***.

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22. At the same time, the decision in ***Hindustan Machine Tools Ltd.(supra)***, relied upon by learned counsel for the Municipal Council, does not alter the conclusion. The said decision recognises the distinction between a building used for an industrial purpose and the machinery installed therein. In the present case, the question is not whether an ordinary factory building used for industrial purposes can be subjected to House Tax. The question is whether the specialised Ammonia Gas Storage Tank installation itself constitutes part of the Plant and Machinery and can, merely by reason of its permanent attachment to the land and the civil construction involved, be treated as a taxable building.

23. On an overall consideration of the nature, function, design and integration of the installation with the manufacturing process, we are of the considered view that the Ammonia Gas Storage Tank cannot be treated as a building merely because it is a permanent structure erected upon and attached to the land. In the facts and circumstances of the present case, the Ammonia Gas Storage Tank is an integral part of the Plant and Machinery and cannot, in its entirety, be subjected to House Tax by treating it as a building. Accordingly, Point No. 1 is answered in the negative. Once Point No. 1 is answered in the negative, the remaining questions framed for consideration do not require any independent adjudication. The entire assessment of House Tax proceeds on the foundational assumption that the Ammonia Gas Storage Tank constitutes a taxable building and that its capital cost could consequently be taken into account for determining its annual rental value.

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24. Having held that the Ammonia Gas Storage Tank itself does not constitute a taxable building, the question whether its entire capital cost of ₹1,51,88,006/- could validly be taken into consideration for determining the annual rental value does not survive for consideration. Likewise, the questions relating to the retrospective assessment for the period from 1982-83 to 1989-90, the validity of carrying forward the annual rental value for the subsequent years and the consequential adjustment of the amounts deposited by the Company need not be examined independently.

25. The writ petitions are disposed of accordingly.

(DEEPAK SIBAL)
JUDGE

(RUPINDERJIT CHAHAL)
JUDGE

18.09.2026
Puneet

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes