

The Full Bench of the Hon'ble Delhi High Court in [Municipal Corporation of Delhi v. J.B. Bottling Company Private Limited ILR 1975 Delhi 739](#) held as under:

“(42) It is, therefore, held that a company as defined in S., 17 of the Prevention of Food Adulteration Act, 1954, does not enjoy immunity from prosecution when under the said Act it is alleged to have committed an offence to which the proviso to sub-section (1) of S. 16 is not applicable; and, in case such a company is found guilty of such an offence, it can be punished with fine.”

Similarly, identical view was taken by the Hon'ble Madras High Court in case *Fidelity Industries Ltd. v. State* 2006 (1) CTC 374.

Hon'ble Supreme Court in case [Standard Chartered Bank & Ors. v. Directorate of Enforcement & Ors.](#) AIR 2006 Supreme Court 1301 has held in Para No.29 as follows:

“29. There does not appear to be any reason to confine the operation of Section 68 of the Act as was done by the High Court. Merely because the expression ‘punished’ is used, it does not mean that it is confined to a prosecution under Section 56 of the Act, since the element that attracts the imposition of penalty and the prosecution is the same, namely, the contravention of any of the provisions of the Act. Moreover, there is nothing in the Act which confines the expression ‘punished’ only to a punishment for a criminal prosecution. An imposition of a penalty can also be a punishment. The second part of the reasoning appears to be self-contradictory. If a person includes a company, there is no reason to confine Section 68 to a prosecution only, because the company as a person is liable to be proceeded against under Section 50 and Section 56 of the Act, though in a criminal prosecution the punishment by way of imprisonment can be imposed only on the officer or officers of the company referred to in Section 68 of the Act. Section 68 only indicates the manner in which a contravention by a company can be dealt with and it does not show that it is confined in its operation only to prosecutions against a company. It is a general provision relating to a contravening company, which is to be proceeded against whether it be under Section 50 or under Section 56 of the Act. The fact that a fine alone can be imposed on a company in a prosecution under Section 56 of the Act, cannot enable us to confine the operation of Section 68 to criminal prosecutions alone under the Act. We see no reason to whittle down the scope of Section 68 of the Act.”

In the said decision, the Hon'ble Supreme Court expressly overruled the decision in [Assistant Commissioner, Assessment-II, Bangalore & Ors. v. Valliappa Textiles Ltd. and Another](#) (2003) (11) SCC 405 and held that there is no immunity to the Companies from prosecution, merely because the prosecution is in respect of an offence, for which the punishment prescribed is imprisonment and fine or fine, or both. Hon'ble Supreme Court in case [H.K. Singla v. Avtar Singh Saini & Ors.](#) 2018 PLRonline 1204 (SC), observed that the amount was deposited with the Society, who had not repaid the same with interest, as assured. It was also held that the Society was in liquidation and a liquidator was appointed and, as such, it was kept open for the respondent to take necessary steps, in accordance with law, to recover the amount, which is ordered to be paid by the District Forum.

In view of the law laid down in the aforesaid cases, the legal position, as stands today, is that the prosecution can be initiated against a Company and fine can be imposed, even when the imprisonment given is mandatory punishment with fine. The punishment can only be awarded to the Company, as per law.

IF JD -Company has failed to comply with the order, it is liable to be punished with fine only for the disobedience of the order passed by this Commission in the complaint.