IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.2733 of 1998 (O&M)
Date of decision: 4.7.2016

M/s Mahabir Solvents

..... Petitioner

Versus

State of Haryana and others

......Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Anil Kshetarpal, Senior Advocate with
Mr. Piyush Aggarwal, Advocate, for the petitioner.

Ms. Mamta Singla Talwar, Deputy Advocate General, Haryana.

RAJESH BINDAL, J

The petitioner has approached this Court impugning the order dated 22.8.1997 passed by the Lower Level Screening Committee as constituted under Rule 28 (A) of the Haryana General Sales Tax Rules, 1975 (for short 'the Rules') and the order passed by the Higher Level Screening Committee, vide which the appeal filed by the petitioner against the order of the Lower Level Screening Committee, was rejected.

The claim of the petitioner was for grant of benefit of deferment of payment of sales tax on the amount invested for expansion of existing unit. The application for the purpose was filed on 26.7.1995 after the expanded capacity came in production on 2.6.1995. The petitioner had set up additional capacity by installing oil expellers. The case was rejected by the Lower Level Screening Committee as upheld by the Higher Level Screening Committee on the ground that the unit was in negative list.

The contention raised by learned counsel for the petitioner was that he had not set up merely oil expellers, but had set up integrated seed processing unit, hence, was not in the negative list, though he did not dispute the fact that oil expellers are in the negative list. He also pleaded discrimination as another unit manufacturing same product was granted benefit under Rule 28 (A) of the Rules vide order passed by the Secretary to the Government, Industries Department in an appeal against the order

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rejecting its case by the Higher Level Screening Committee.

Learned counsel for the State contested the claim made by the petitioner and stated that as per the product mentioned in the application filed by the petitioner, it was clear that the unit was in negative list, hence, not entitled for benefit of deferment of payment of sales tax. Still while referring to the communication dated 4.3.2014 from the Joint Director, Industries, Kurukshetra, it was stated that the petitioner did not comply with the interim order passed by the Court at the time of admission of the writ petition on 13.11.1998. In terms of the aforesaid order the petitioner was required to furnish bank guarantee to secure payment of sales tax and interest thereon in case of dismissal of the writ petition. It was further submitted that the unit was closed in the year 1997-98 and was subsequently sold to M/s Khurana Agro, where a rice seller was set up in the year 2005 and the earlier promoter shifted to Ruderpur, Uttranchal. A letter from M/s Khurana Agro was also referred to state these facts.

As per the Rule 28A(8)(a) of the Rules, eligibility certificate granted to an industrial unit can be withdrawn at any time during its currency, inter alia, on the ground that the unit is closed for a continuous period exceeding six months. Meaning thereby, as per the Rules once the unit was closed during the currency of eligibility certificate for the period exceeding six months, the same could be withdrawn by the Lower Level Screening Committee.

Considering the aforesaid aspects especially the information furnished by counsel for the State, we do not find any reason to examine the matter on merit, as the unit itself was closed in the year 1997-98 and the property was sold.

The petition stands dismissed.

(RAJESH BINDAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

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