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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (T) No.4859 of 2008

1. M/s. Vandana Ispat Ltd., A company incorporated under the Companies Act, 1956 having its registered office at Vandana Building, M.G. Road, Raipur and Unit-I situated at Plot No. 678, Sector E, Urla Industrial Area, Raipur (C.G.) through its Director Shri Subhash Chand Agrawal

2. Subhash Chand Agrawal, aged about 50 years, S/o Nirajanlal Agrawal, Director M/s. Vandana Ispat Ltd., R/o Vandana Building, M.G. Road, Raipur (C.G.)

---- Petitioners

Versus

1. State Appellate Forum (for exemptions) through Member Secretary, Department of Commerce and Industry, D.K.S. Mantralaya Bhavan, Raipur (C.G.)

2. State of Chhattisgarh through :

   (a) Secretary, Department of Commerce and Industries

   (b) Secretary, Department of Commercial Taxes

   (c) Secretary, Department of Law, D.K.S. Mantralaya Bhavan, Raipur (C.G.)

3. Commissioner, Commercial Tax, Vanijyik Kar Bhavan, Civil Lines, Raipur (C.G.)

---- Respondents

For Petitioners: Mr. Neelabh Dubey, Advocate.
For Respondents: Mr. Anand Dadariya, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

30/04/2018

1. The petitioner Company was granted exemption from payment of Central Sales Tax and M.P. Commercial Tax with effect from 9-7-1996 to 8-7-2003 by order dated 27-5-1999, as it has invested ₹ 4,31,00,000/- and later-on, the petitioner made additional investment of ₹ 3,89,00,000/-, which was duly amended vide order dated 22-3-2002. Thereafter, the petitioner Company made application that the additional expenditure

which it has made be treated as expansion of the existing industrial unit and therefore it is entitled for exemption on the ground of expansion which was rejected by the competent authority and by the State level appeal committee against which this writ petition has been filed.

2. Learned counsel for the petitioners submits that both the authorities have committed illegality in rejecting the application.

3. On the other hand, learned State counsel opposed the petition.

4. I have heard learned counsel for the parties.

5. The State level appeal committee has clearly recorded a finding that the petitioner Company was a new industrial unit as per the notification dated 6-10-1994 and granted the said exemption by order dated 27-5-1999 as a new industrial unit, as it has commenced production after 6-10-1994. The State level appeal committee has also recorded a finding that the new industrial unit cannot be classified as existing industrial unit and relied upon the matter of **State of Jharkhand and others v. Ambay Cements and another**[1] in which it was held that exemption provision in a taxing statute should be construed strictly.

6. After hearing learned counsel for the parties and taking into consideration the finding recorded by the State level appeal committee which clearly held that new industrial unit cannot be termed as existing industrial unit, I do not find any error of jurisdiction or illegality in the aforesaid finding recorded by the aforesaid authority. The petitioner having knowledge of exemption under the new industrial unit cannot be permitted to fall back and claim exemption as an existing industrial unit. Consequently, the petition is dismissed. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma

1 (2005) 1 SCC 368