

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 507 of 2018

(Arising out of Order dated 10.11.2016 passed in W.P. No. 6074 of 2000 by the learned Single Judge)

1. M/s Utkal Hydrocarbons Having Its Registered Office At 409, Swaika Cente, Pollock Street, Kolkata (WB). Pin Code - 700001, Factory 16, 16-B, And 16-C, Light Industrial Area, P.O. Industrial Estate, Bhilai Chhattisgarh. Pin Code - 490026. Through Its Partners, Shri Pankaj Porwal, S/o Shri Danmal Porwal, Aged About 43 Years, Occupation - Business, R/o 2/11, Motilal Nehru Nagar (East), Bhilai Chhattisgarh Pin Code - 490020.
2. Smt. Shobha Porwal, W/o Shri Danmal Porwal, Aged About 63 Years Occupation - Business, R/o -2/11, Motilal Nehru Nagar (East), Bhilai Chhattisgarh Pin Code - 490020.

---- Appellants

Versus

1. Union Of India Through Finance, North Block, New Delhi.
2. Steel Authority Of India, Bhilai Steel Plant, Bhilai, First Floor, Ispat Bhawan, Bhilai (Chhattisgarh). Through Its Chief Executive Officer.
3. General Manager (Finance), Steel Authority Of India, Bhilai Steel Plant, Bhilai, District Durg (Chhattigarh).

---- Respondents

For Appellant	:	Shri Manoj Sharma and Shri K. Rohan, Advocates
For Union of India	:	Shri B. Gopa Kumar, Assistant Solicitor General
For Respondent-BSP	:	Shri (Dr.) N. K. Shukla, Senior Advocate assisted by Shri Vikram Singh, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per, Ajay Kumar Tripathi, Chief Justice

12.11.2018

1. Heard counsel for the Appellant and counsel for the Respondents.
2. We have been through the order dated 10.11.2016 passed by the learned Single Judge in the writ petition where a direction was issued to refund the excise collected by the Bhilai Steel Plant with interest @ 9% per annum from 05.10.2000. This refund was ordered keeping in mind that the by-products which were obtained by the Appellant were exempted from Central Excise Duty for the period 1978-1985.

3. The appeal has been preferred because unlike the decision rendered in the case on **M.P. Tar Products and another Vs. Union of India**, a copy of which was annexed with writ petition as Annexure-P/6, the present appellant wanted parity especially, since the Central Excise Department refunded the amount to the Bhilai Steel Plant on 05.08.1987.
4. The learned Single Judge took notice of the fact that the writ petition was preferred only in the year 2000 i.e. after 13 years.
5. The explanation offered by the learned counsel for the Appellant is that a communication was made in the year 1988 to the Bhilai Steel Plant. They were asked to wait. Nothing was heard for a long period of time. Only when the decision was rendered by the M.P. High Court in **M.P. Tar Products** (*supra*), that the appellant was compelled to approach the High Court.
6. Writing letters and sleeping over the issue, may be awaiting adjudication in another matter, cannot be a justification especially when it comes down to payment of interest on the refund. 13 years is a long time when there is hardly any action or activity on the part of the Appellant to assert his right.
7. In that view of the matter, we do not find any error in the view taken by the learned Single Judge in limiting payment of interest from the date of filing of the writ instead of from 1987.
8. The appeal is dismissed.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge