209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:138046-DB

CWP-3150-2003 (O&M)
Date of Decision: 22.10.2024

State of Haryana …Petitioner

Vs.

M/s O.K. Play India Ltd. & anr. …Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Ms. Mamta Singla Talwar, DAG, Haryana.
Mr. Sandeep Goyal, Advocate for the respondent.

***

<u>SANJEEV PRAKASH SHARMA, J.(Oral)</u>

1. Heard learned counsel for the parties at length.

2. The petitioner by way of this writ petition has impugned the order dated 04.07.2020, passed by the Commissioner and Secretary, Government of Haryana, Industries Department, Haryana, Chandigarh, whereby the appeal of the concerned company was accepted and the sale tax exemption was granted for the expansion/diversification of land building and investment of plant and machinery and the total fixed capital investment (FCI) of Rs.552.57 lakh was granted to the respondents company after considering the recommendations made by the General Manager, Department of Industries, Gurgaon, relating to land building and machinery.

3. Learned counsel for the petitioner submits that the investment in plant and machinery was not done. However, we find that an amount of Rs.2,90,11,852/- was spent on plant and machinery during the period 1989-90 to 1996 and Haryana State Industrial Development Corporation and Haryana Financial Corporation have leased out the machinery. The contention of learned counsel for the petitioner that the same would not fall in FCI, is found to be erroneous.

4. We further notice that while passing the impugned order dated 04.07.2000, the contentions raised by the Joint Director, Industries, were taken into account who raised an argument regarding the plant and machinery being in the ownership of the financial institutions.

5. We are satisfied that investment qua purchase of plant and machinery and such machinery stands hypothecated with the concerned financial institutions, the same cannot be treated as being on lease the term lease is used as a misnomer. Be that as it may, we also noticed that the quantum and period of tax exemption has been provided for units undertaking expansion/diversification upto 100% for small scale and 90% for medium/large scale, as per Chapter IV-A under Rule 28A of the Haryana General Sales Tax Rules, 1975.

5. Taking into consideration the admitted position of investments made, we find that the exemption has come to around 90% of the total investments. In view thereto, no interference is warranted in the order impugned in the present writ petition.

6. The writ petition is found to be without merit and the same is accordingly dismissed.

7. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

22.10.2024
rajesh

1. Whether speaking/reasoned? : Yes/No
2. Whether reportable? : Yes/No