

(2000) 11 SC CK 0110

In the Supreme Court Of India

Case No : Civil Appeal No. 4472 of 2000 (Appeal by special leave from the judgment and order dated May 24, 2000 of the Rajasthan High Court in S.B. Sales Tax Revision No. 669 of 1999)

Aditya Cement

APPELLANT

Vs

Commercial Taxes Officer, Rajasthan

RESPONDENT

Date of Decision : 15-11-2000

Acts Referred:

Citation : (2002) 9 SCC 548 : (2001) 123 STC 425

Hon'ble Judges : N. Santosh Hedge, J; Doraiswamy Raju, J; B. N. Kirpal, J

Bench : Full Bench

Advocate : A. MISHRA, A. P. DHAMIJA, C. S. BHARDVAJ, HARISH N. SLAVE, M. L. PATODI, RAJESH NAIR, S. GANESH, SUSHIL KUMAR JAIN, U. A. RANA

Final Decision : Dismissed

Judgement

1. After hearing learned Counsel for the parties, we are, of the opinion that the judgment of the High Court Commercial Taxes Officer Vs. Aditya Cement, is correct and calls for no interference. It is quite apparent from a reading of the "Rajasthan Sales Tax New Deferment Scheme for Industries, 1989" that even-though the appellant may have been a new very prestigious industry it is still not entitled to claim deferment of tax to the extent of 90 per cent, inasmuch as the cement industry is included in annexure B which contains a list of those industries which are ineligible to get the benefit of deferment of tax. However, second proviso to Clause 2(j) provides that a large scale cement plant established, except in tribal sub-plan area, shall be entitled to deferment of tax as provided in Clause 4 of the notification. Clause 4 of the notification specifically provides that in the case of large scale cement units having an investment of Rs. 100 crores or more and located in a non-tribal sub plan area shall be entitled to claim deferment of tax to the extent of 50 per cent of their tax liability under the Act with all other restrictions applicable to an industrial unit as provided in annexure C.

2. The case of the appellant falls clearly within this. There is a specific benefit granted to a large scale cement unit, whether it be new very prestigious unit or otherwise, and that it may have its deferment only to the extent of 50 per cent and no more.

3. For the aforesaid reasons, this appeal is dismissed. No costs.