(2002) 09 P&H CK 0035

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No. 12899 of 2002 (O and M)

Anka India Ltd. APPELLANT

Vs

State of Haryana and Others RESPONDENT

Date of Decision : 04-09-2002

Acts Referred:
Haryana General Sales Tax Rules, 1975 — Rule 28A

Citation : (2003) 129 STC 258

Hon'ble Judges : Virender Singh, J;N.K. Sodhi, J

Bench : Division Bench

Advocate : Kashmiri Lal Goyal, for the Appellant; Ritu Bahri, Deputy Advocate-General, for the Respondent

Final Decision : Allowed

Judgement

N.K. Sodhi, J.—Petitioner is an exempted unit under Rule 28A of the Haryana General Sales Tax Rules, 1975. It has been issued an eligibility certificate certifying that it is entitled to exemption from sales tax to the tune of Rs. 420.66 lacs for the period from March 17, 1997 to March 16, 2004. The exemption certificate was issued on June 25, 2002 pertaining to the same period though it is renewed yearly. In the meantime, the petitioner was assessed under the Haryana General Sales Tax Act, 1973 and also under the Central Sales Tax Act, 1956, for the years 1996-97 and 1997-98 and a total demand created amounting to Rs. 2,30,877 under the local Act and another sum of Rs. 29,18,186 under the Central Act for the aforesaid two years. This petition has been filed under Article 226 of the Constitution with a grievance that even though the petitioner is an exempted unit and is in possession of the eligibility certificate, the respondents are recovering the amounts assessed for the assessment years 1996-97 and 1997-98.

2. In response to the notice of motion, the respondents have put in appearance through the learned Deputy Advocate-General. It is contended on behalf of the State that since the exemption certificate under Rule 28-A of the Rules was

issued only on June 25, 2002, i.e., after the assessments for the years 1996-97 and 1997-98 had been made, therefore, the petitioner is liable to deposit the amount in terms of those assessment orders.

3. We have heard counsel for the parties and are of the view that the stand of the respondents cannot be sustained. It is common case of the parties that the petitioner is an exempted unit and is in possession of eligibility certificate. Merely because the exemption certificate was issued on June 25, 2002 would not mean that the petitioner would be liable to pay the amount as assessed for those two years. The exemption certificate, no doubt, was issued on June 25, 2002 but the same relates to the period for which the petitioner has been granted exemption, namely, from March 17, 1997 to March 16, 2004. In view of the exemption granted to the petitioner, we are clearly of the view that it is not required to pay the amount as assessed by the Assessing Officer for the assessment years 1996-97 and 1997-98 and the amounts as assessed would be adjusted against the exemption limit.

4. In the result, the writ petition is allowed and the respondents are directed not to recover the amount from the petitioner as assessed for the assessment years 1996-97 and 1997-98. No costs.

