(2001) 03 P&H CK 0006

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 3325 of 2001

A.R. Rice Mills APPELLANT

Vs

State of Haryana and Others RESPONDENT

Date of Decision : 07-03-2001

Acts Referred:

Constitution of India, 1950 — Article 226
Haryana General Sales Tax Rules, 1975 — Rule 28A

Citation : (2001) 123 STC 500

Hon'ble Judges : Nirmal Singh, J;G.S. Singhvi, J

Bench : Division Bench

Advocate : Avneesh Jhingan, for the Appellant; Jaswant Singh, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

G.S. Singhvi, J.—In this petition, the petitioner has prayed for quashing the decisions of the Lower Level Screening Committee (for short, "LLSC") and the Higher Level Screening Committee (for short, "HLSC") in the matter of grant of eligibility certificate under the Haryana General Sales Tax Rules, 1975 (for short, "the Rules").

2. A perusal of the record shows that the petitioner set up a small-scale industry at village Kutail, District Karnal, for milling of rice, polishing, etc., and started commercial production on December 23, 1995. After completion of all formalities, the petitioner submitted an application to the General Manager, District Industries Centre, Karnal, for grant of eligibility certificate for tax exemption. The application of the petitioner came up for consideration on March 20, 1998 before the LLSC, which rejected the same on the ground of non-production of change of land use certificate. The appeal filed by the petitioner against that decision was dismissed by the HLSC in its meetings held on March 19, 1999 and July 1, 1999. The review application filed by the petitioner was dismissed by the HLSC on September 23, 1999.

3. The petitioner has averred that the decisions of the LLSC and the HLSC are vitiated due to violation of principles of natural justice because no opportunity of hearing was afforded to it before declining its prayer for grant of eligibility certificate.

4. After perusing the averments made in the petition, we requested Shri Jaswant Singh, learned Deputy Advocate-General to accept the notice on behalf of the respondents because in a number of cases, similar decisions of the LLSC and the HLSC have already been quashed by this Court.

5. After going through the records, Shri Jaswant Singh frankly stated that the case of the petitioner is similar to Nice Spinners Pvt. Ltd., Panipat v. State of Haryana (C.W.P. No. 9005 of 2000, decided on August 21, 2000), reported in 2001 121 STC 456 , but argued that relief should not be given to the petitioner because it has failed to explain the delay of more than one year and six months between the dates of decision of the HLSC and filing of the writ petition.

6. We have given serious thought to the argument of the learned Deputy Advocate-General, but have not felt persuaded to agree with him that relief should be declined to the petitioner only on the ground that it has invoked the jurisdiction of this Court after a lapse of one year and six months. In our opinion, this much of delay cannot be treated as fatal to the maintainability of the writ petition because on that account, no prejudice has been caused to the respondents.

7. Hence, the writ petition is allowed. The decision of the HLSC is declared illegal and quashed with the direction to it to pass fresh order in accordance with law and the decision of this Court Nice Spinners Pvt. Ltd., Panipat v. State of Haryana (C.W.P. No. 9005 of 2000 decided on August 21, 2000), reported in 2001 121 STC 456. The petitioner is also given liberty to raise all legal permissible objections before the HLSC.