(1986) 06 KAR CK 0019

In the Karnataka High Court

Case No : Writ Petition No. 15252 of 1983

Arpee Electrical Pvt. Ltd — APPELLANT

Vs

Finance Secretary and Others — RESPONDENT

Date of Decision : 09-06-1986

Acts Referred:

Citation : (1993) 88 STC 457

Hon'ble Judges : N.D. Venkatesh, J;Jagannatha Shetty, J

Bench : Division Bench

Judgement

N.D. Venkatesh, J.—This is a petition referred to Division Bench for disposal according to law.

2. The petitioner is a small-scale industrial unit. It is engaged in the manufacture of copper enameled wires. It is a registered dealer under the Karnataka Sales Tax Act, 1957 and also the Central Sales Tax Act, 1956. As an incentive for small-scale industries, the Government of Karnataka issued a Notification dated October 16, 1981, providing for the reduction of 50 per cent in the rate of tax or taxes payable under the Karnataka Sales Tax Act, on the verification of the goods manufactured by the small-scale industrial unit and sold by such unit. The concession was available for a period of 5 years from the date of commencement of the commercial production of the industrial unit. Since the petitioner comes within the category of the units specified in that notification, it sought for concession and refund of the sales tax paid during the period in question. The statutory authority having refused to extend that benefit, it has preferred this writ petition.

3. We have heard the learned counsel for the petitioner and the High Court Government Pleader for the respondents.

4. Before we deal with the contentions raised by both sides, it would be convenient to refer to the relevant portion of the notification issued on October 16, 1981.

"Explanation 2. - The provisions of this notification shall also be applicable to such of the small-scale industries which had gone into commercial production between 1st April, 1975 and 31st March, 1981 and were eligible for concessions of refund of sales tax paid on raw materials under various Government orders previously issued from time to time, but were not able to avail of such refund in any one or more years, provided that (i) the amount of sales tax concession available to the unit under Karnataka sales tax and Central sales tax in terms of this notification read with Notification No. FD 164 CSO, 79(11) dated 16th October, 1981, together with the amount of tax, if any, already obtained by the unit as refund and/or the amount of tax adjusted/withheld by such unit shall not exceed the overall limits prescribed in this notification, and (ii) such unit relinquishes, in writing, its pending claims, if any, under the earlier Government orders with regard to the refund of sales tax paid on the raw materials purchased by it during the period prior to 1st April, 1981."

5. It will be seen therefrom that the benefit of the concession afforded under the notification dated October 16, 1981, has been extended to small-scale industries which have gone into commercial production between April 1, 1975 and March 31, 1981. It is not in dispute and indeed cannot be disputed that the petitioner has commenced production from January 18, 1979 and therefore is entitled to the benefits conferred under the said notification. We fail to understand how the Government could have insisted that the eligibility to obtain the concession could be only when the industrial unit could charge for and collect tax at half of the prescribed rate of tax. That is not the condition which has been imposed under the aforesaid notification. The incentive is meant for the industrial unit and we are sure that it is not for the benefit of the consumer. If the intention was to benefit the consumer, there were other and better ways by which the State Government could have extended the same. Nothing more need to be added in this context.

6. In the result, we allow the writ petition, make the rule absolute and direct the 3rd respondent to grant incentive to the petitioner in accordance with law and in the light of the observations made herein. In the circumstances of the case, we make no order as to costs.

