
(1969) 12 AP CK 0005

In the Andhra Pradesh High Court

Case No : Writ Appeal No. 538 of 1969

Assistant Collector, Central Excise

APPELLANT

Vs

Nizam Sugar Factory Ltd.

RESPONDENT

Date of Decision : 26-12-1969

Acts Referred:

Central Excise Rules, 1944 — Rule 175, 175(3)

Citation : (1978) 2 ELT 489

Hon'ble Judges : N. Kumarayya, C.J.;Sambasivarao, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

N. Kumarayya, C.J.—We do not think there are any merits in this appeal. The Nizam Sugar Factory Ltd., had started with one factory for which a licence was granted by the Central Excise Authorities. In 1951 an additional factory was started for which a separate licence was obtained in that year. Ever since the Company has been obtaining two separate licences for two distinct factories. It was for the first time in 1967-68 when the Company applied for grant of separate licences as usual, the Assistant Collector expressed that he was prepared to grant only one licence for both the factories but not two separate licences for them. Accordingly the factory was called upon to make a single application for both the factories. Aggrieved by this, the Company invoked the writ jurisdiction of this court claiming that the two factories are distinct and separate, and the company cannot be obliged to treat them as one factory and obtain one licence. No doubt, the two units belong to the same company. but the place of business is not the same though it may be that they are situated in the same town. This claim was resisted on the ground that since both the factories are situated in the same area enclosed by a single compound wall, they should be treated as one factory and a single licence should be obtained for both the factories. That is so also because there is one common exit gate and one common profit and loss account and further for purposes of export quota both of them are treated as

one. These contentions were rejected by our learned brother, Chinnapra Reddy, J., on the ground that the factories are distinct and were treated as such for a number of years. Rule 175(3) of the Central Excise Rules contemplates issuance of separate licences if the same person or company has more than one place of business. On this basis he allowed the writ petition without costs. Aggrieved by this, the Asstt. Collector, Central Excise, has preferred this appeal.

2. It is argued that proviso to Rule 175(3) of the Central Excise Rules is applicable to the present case. But on a reading of the said proviso, it is clear that the proviso is concerned with only cases of unmanufactured products alone. Rule 175(3) reads thus :

"175. Procedure for obtaining licence.-(1) Every person desiring to engage in operations requiring the possession of a licence as aforesaid shall apply in writing every year for a licence or renewal thereof to the licensing authority who shall be such officer as the Central Board of Revenue may authorise in this behalf.

(2) If the same person desires to have licences for carrying on business in more than one capacity, he shall submit separate applications.

(3) Where the applicant has more than one place of business he shall obtain separate licence in respect of each such place of business :

Provided that if in the case of unmanufactured products such places are situated in the same town or village and the business at such place is conducted in the same name as that of the principal place of business; the licence shall be granted in respect of the principal place of business and the other places shall be treated as branches and shall be serially numbered and shown in the licence."

3. It is clear from this rule that any person, if he desires to have licences in more than one capacity or at more than one place of business, he can submit separate applications and obtain separate licences in respect of each such place of business. That is the right given to the person under Rule 175. The only limitation on this right is that in the case of unmanufactured products if such places are situated in the same town or village and the business of such place is conducted under the same name as that of the principal place of business and the other places shall be treated as branches.

4. It follows therefore that in the case of manufactured products, such places of business though situated in the same town or in the close vicinity whether having the same compound or different compounds a person is entitled to apply for separate licences in respect of each place of business. That being the state of law, we see no merits in this writ appeal. It is accordingly dismissed.