(1997) 12 P&H CK 0043

In the Punjab And Haryana At Chandigarh

Case No : C.M. No. 28981 of 1997 and C.W.P. No. 11383 of 1997

Baldev Spinners Pvt. Ltd. APPELLANT

Vs

State of Haryana and Others RESPONDENT

Date of Decision : 22-12-1997

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

Citation : (1997) 12 P&H CK 0043

Hon'ble Judges : Iqbal Singh, J;G.C. Garg, J

Bench : Division Bench

Advocate : D.D. Verma, for the Appellant; Parmod Goyal, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

1. C.M. allowed. Replication taken on record.

2. The petitioner is a private limited company and has set up an industrial unit in Village Ugra Kheri, Sanouli Road, Panipat in the State of Haryana for the manufacture and sale of all types of yam including shoddy, non-worsted and arylic yam. Petitioner was granted eligibility certificate for exemption from sales tax by the General Manager, District Industries Centre, Panipat vide letter dated May 21, 1996, annexure P2. Exemption certificate under Rule 28-A of the Haryana General Sales Tax Rules, 1975 was issued in favour of the petitioner by the Deputy Excise and Taxation Commissioner, Panipat in form ST-73 on June 12, 1996, annexure P3 on the basis of recommendation of the Lower, Level Screening Committee. The eligibility certificate was, however, withdrawn by the Lower Level Screening Committee vide order dated June 19, 1997 and consequently, the petitioner was thereafter conveyed by letter dated July 22, 1997 that the eligibility certificate issued in favour of the petitioner has been withdrawn. Hence, this writ petition at the instance of the petitioner.

3. In response to the notice of motion respondents put in appearance and filed

reply. The withdrawal of the eligibility certificate has been sought to be justified on the ground that it was wrongly granted. The petitioner did not submit the "No objection certificate" for change of land user and in the absence thereof the certificate could not be granted.

4. After hearing learned counsel for the parties, we do not consider it necessary to go into the merits of the petition as concededly the eligibility certificate earlier issued in favour of the petitioner was withdrawn in the absence of notice either by the Lower Level Screening Committee or by any other authority. Once the eligibility certificate had been granted in favour of the petitioner, the same could be withdrawn, if at all, after notice to the petitioner and communicating the grounds on which the certificate was sought to be withdrawn. If this procedure had been adopted, the petitioner may have satisfied the authority that the ground does not exist for withdrawing the eligibility certificate. By withdrawal of the eligibility certificate, the rights of the petitioner have been affected as in the absence of the eligibility certificate, the petitioner is required lo pay sales tax which it otherwise, was not liable to pay. In that view of the matter, orders. annexurcs P-1 and P-5 are quashed. The writ petition is allowed, but with no order as lo costs. It is, however, clarified that it will be open to the respondent-authority to proceed with the matter afresh in accordance with law after serving a notice on the petitioner and affording it an opportunity of showing cause against the action proposed to be taken.