
(2002) 12 P&H CK 0027
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 9545 of 2001 (O and M)

Baldev Spinners Pvt. Ltd.

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 10-12-2002

Acts Referred:

Haryana General Sales Tax Rules, 1975 — Rule 28A, 28A(8)

Citation : (2003) 132 STC 594

Hon'ble Judges : S.S. Saron, J;N.K. Sodhi, J

Bench : Division Bench

Advocate : D.D. Verma, for the Appellant; Randhir Singh, Senior DAG, for the Respondent

Final Decision : Allowed

Judgement

This Judgment has been overruled by : State of Haryana and Others Vs. Baldev Spinners Pvt. Ltd. and Others, (2009) 5 JT 237 : (2009) 4 SCALE 79 : (2009) 13 SCC 319 : (2009) 2 SCR 1156 : (2009) 3 UJ 1298 : (2009) 11 Vat Reporter 90 : (2009) 21 VST 463 : (2009) AIRSCW 5385

N.K. Sodhi, J.—What is challenged in this writ petition filed under article 226 of the Constitution is the communication dated November 26, 1998 addressed by the General Manager, District Industries Centre, Panipat to the petitioner informing the latter that the eligibility certificate issued to it under rule 28A of the Haryana General Sales Tax Rules, 1975 (hereinafter called "the Rules") had been withdrawn by the Lower Level Screening Committee on the ground that the petitioner failed to produce the certificate regarding change of land use/no objection certificate from the Town and Country Planning Department, Haryana. The order dated February 6, 2001 passed by the Higher Level Screening Committee rejecting the appeal filed by the petitioner has also been impugned in this petition.

2. Having heard counsel for the parties, we are of the view that the writ petition

deserves to succeed.

3. The grounds on which the eligibility certificate granted to an industrial unit can be withdrawn are mentioned in sub-rule (8)(a) of rule 28A of the Rules and it reads as under :

"(8)(a) The eligibility certificate granted to an industrial unit shall be liable to be withdrawn at any time during its currency by the appropriate screening committee, in the following circumstances-

(i) if it is discovered that it has been obtained by fraud, deceit misrepresentation, mis-statement or concealment of material facts ;

(ii) discontinuance of its business by the unit or closing down of its business for a continuous period exceeding six months except in case of fire, flood and other natural calamities, riots, strike or lockout which in the opinion of the committee concerned is beyond the control of the unit ;

(iii) disposal or transfer by the unit or any of its fixed assets adversely affecting its manufacturing or production capacity :

Provided that no order of withdrawal of the eligibility certificate shall be made without affording a reasonable opportunity of being heard to the affected unit."

4. A bare perusal of the aforesaid provisions would make it clear that non-production of the certificate regarding change of land use is not a ground on which the eligibility certificate could be withdrawn. It is well-settled that the provisions of a taxing statute particularly those dealing with cancellation/withdrawal of certificates have to be interpreted strictly and that the certificates can be withdrawn only on the grounds mentioned in the statute and on no other ground. It is true that at the time of issuing eligibility certificate it is open to the competent authority to insist for the production of a certificate regarding change of land use from the Town and Country Planning Department and if such a certificate is not produced the competent authority can refuse to issue the eligibility certificate under rule 28A of the Rules. However, if the eligibility certificate is granted without insisting on the production of the certificate from the Town and Country Planning Department, it is not open to the Lower Level Screening Committee to withdraw the eligibility certificate on the ground of non-production of the certificate regarding change of land use. In this view of the matter, neither the Higher Level Screening Committee nor the Lower Level Screening Committee were justified in withdrawing the certificate merely because the petitioner had failed to produce the certificate from the Town and Country Planning Department regarding change of land use. The view that we have taken finds support from a division Bench judgment of this Court in *R.K. Mittal Woollen Mills v. State of Haryana* [2001] 123 STC 248 ; (2000) 15 P&H 261.

5. For the reasons recorded above, the impugned orders withdrawing the eligibility certificate of the petitioner cannot be sustained. Consequently, the writ

petition is allowed and the impugned orders dated November 26, 1998 and February 6, 2001 are quashed leaving the parties to bear their own costs.