(1996) 03 P&H CK 0030

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 18832 of 1995

Banarsi Das Cotton Mills (P) Ltd. APPELLANT

Vs

State of Haryana and Another RESPONDENT

Date of Decision : 07-03-1996

Acts Referred:

Constitution of India, 1950 — Article 226
Haryana General Sales Tax Act, 1973 — Section 13B
Haryana General Sales Tax Rules, 1975 — Rule 28A

Citation : (1997) 115 PLR 17

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

Bench : Division Bench

Advocate : Rajesh Bindal, for the Appellant; R.N. Raina, D.A.G., for the Respondent

Judgement

G.S. Singhvi, J.—This petition is directed against the notice Annexure PI whereby the petitioner has been conveyed with the rejection of its appeal by the Higher Level Screening Committee.

2. The petitioner claims that it was registered with the Industries Department of the Government of Haryana as a small-scale unit on 29.8.1991. It is stated that the petitioner was granted eligibility certificate so as to become entitled to claim exemption from payment of tax by virtue of Rule 28-A of the Haryana General Sales Tax Rules, 1975. The petitioner says that it carried out expansion of its unit and applied for the benefit on the basis of such expansion. However, its application for grant of benefit was rejected by the Lower Level Screening Committee. Thereafter, an appeal was filed before the High Level Screening Committee but the same has also been dismissed by the said Committee on 28.3.1995. The petitioner further says that the decision of the Higher Level Screening Committee has been conveyed to it vide Annexure PI and perusal of the same shows that no reason has been assigned by the Higher Level Screening Committee for rejecting the appeal filed by the petitioner.

3. Although the impugned order/notice has been challenged on various grounds, we are of the opinion that the same is liable to be quashed on the short ground it does not contain reasons. There can be no manner of doubt that while deciding the appeal the Higher Level Screening Committee acts as a quasi judicial authority and it is duty bond to record reasons in support of its decision. The recording of reasons and communication thereof is imperative for compliance of the principles of natural justice which must inform the proceedings of every quasi judicial body and even in the absence of a statutory provision or administrative instructions requiring recording of reasons in support of the orders, the quasi judicial authority must pass speaking orders so as to stand the test of scrutiny.

4. In Testeels Ltd. Vs. N.M. Desai and Another, Full Bench of the Gujarat High Court held that the jurisdiction of the High Court under Article 226 and that of the Supreme Court under Article 136 of the Constitution of India cannot be stultified by administrative authorities by passing non-speaking orders.

5. The requirement of recording of reasons and communication thereof by quasi judicial authorities has been emphasised in several judgments of the Supreme Court including a Constitution Bench Judgment in S.N. Mukherjee Vs. Union of India, .

6. Similar view has been expressed by a Division Bench of this Court in C.W.P. No. 10769 of 1995 (Haryana Cotton Mills P. Ltd. Tohana v. State of Haryana and Ors.), decided on 8.12.1995.

7. In view of the above legal position, we quash the rejection of the petitioner''s appeal by the Higher Level Screening Committee and direct that Higher Level Screening Committee shall reconsider the appeal filed by the petitioner and pass a fresh order after giving opportunity of hearing to the petitioner. The High Level Screening Committee is further directed to decide the appeal afresh by passing a reasoned order within a period of one month after issuing notice to the petitioner for a specific date of hearing, on receipt of a copy of this order. The registry of this Court is directed to send a copy of this order to respondent No. 2.