(2011) 06 JH CK 0120

In the Jharkhand High Court

Case No : C.W.J.C No. 9367 of 1997 (P)

Bihar Caustic and Chemicals Ltd. APPELLANT

Vs

The State of Bihar and Others RESPONDENT

Date of Decision : 16-06-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 06 JH CK 0120

Hon'ble Judges : Prakash Tatia, Acting C.J.;Jaya Roy, J

Bench : Division Bench

Judgement

1. Heard the counsel for the parties.

2. The Petitioner''s contention is that on 29.09.1973, the State Government came with a policy to grant exemption from payment of sales tax on purchase of raw-materials as well as on sales of the goods to certain industries, and then the said scheme was modified on 29.6.1976 and on 29.11.1976 dispensing with from the exemption of the sales tax referred above, but to grant interest free loan against the sales tax payment for 10 years from the date of start of production by the new units. The Petitioner established the new unit by taking loan and acted under such assurance of the State Government to take benefit under full assurance of the benefit of the tax free loan of sales tax paid by the Petitioner.

3. The learned Counsel for the Petitioner also submitted that because of subsequent resolution also the Petitioner was entitled to interest free loan. However, we are not going into the eligibility of the Petitioner for interest free loan, but because of the fact, that Petitioner is not entitled to any equitable relief under Article 226 of the Constitution of India for the reasons mentioned hereunder.

4. The Petitioner claims that it established the industrial unit and started commercial production from the year 1984 and started paying the sales tax, and the year-wise details of the sales tax paid by the Petitioner is as under:

Sl. No.

Year

Tax paid by the Unit (Rs.)

Eligible amount (Rs.)

1.

1984-85

23,34,168.14

23,34,168.14

2.

1985-86

58,91,602.51

58,91,602.51

3.

1986-87

64,66,075.06

64,66,075.06

4.

1987-88

79,64,237.61

79,64,237.61

5.

1988-89

1,02,17,323.13

1,02,17,323.13

6.

1989-90

1,06,71,243.24

1,06,71,243.24

7.

1990-91

1,34,03,749.38

1,34,03,749.38

8.

1991-92

1,61,07,564.07

1,61,07,564.07

9.

1992-93

1,42,54,220.61

1,42,54,220.61

10.

1993-94

1,65,54,497.64

1,65,54,497.64

10,38,64,681.39

10,38,64,681.39

5. The Petitioner''s further contention is that it applied for the said interest free loan in time and against the tax paid for the period from 1984-85 to 1988-89, it submitted a claim of Rs. 3,28,73,406.45 paise, and illegally only interest free loan at the rate of Rs. 21 Lacs per year amounting to Rs. 1,05,00,000/- was sanctioned and paid to the Petitioner. The Petitioner''s claim for subsequent years for interest free loan to the extent of Rs. 7,09,91,274.94 paise from 1989-90 to 1993-94 was not granted.

6. The Petitioner''s case is that it annually submitted its claim for interest free loan from very beginning since 1984 till 1994 for the period for which the interest free loan should have been given to the Petitioner. Therefore, with these facts, the Petitioner after giving one after another representations to the Respondent authority, approached this Court by filing writ petition on 25.9.1997.

7. The fact remains that the cause of action to obtain interest free loan annually accrued to the Petitioner as back as in the year 1984-85 and obviously may be first in the year 1986 and thereafter, after completion of the financial year or just thereafter and from the year 1985 to 1994 the cause of action accrued to the Petitioner for getting interest free loan, which admittedly has not been paid to the Petitioner even from the beginning. The Petitioner then in the year 1997 seeking a consolidated amount in the form of interest free loan approached this

Court, whereas as per the policy if the loan would have been granted to the Petitioner in the year 1984, it would have availed the benefit of interest free loan only up to 5 years and would have become payable long back from filing of the writ petition.

8. In these facts and circumstances, when the Petitioner itself remained silent for such a long period of almost 10 years with the plea that it went on submitting the representations to the Respondents, he is not equitable any relief, and in fact, it will be absolutely an inequitable, if the relief is granted to the Petitioner as grant of interest free loan for the period of the year 1984-85 to 1993-94 and today it is absolutely unjust to give the relief to the Petitioner of interest free loan after a delay of almost 9 years from the last date of entitlement of the Petitioner for interest free loan. However, we make it clear that we are not holding that the Petitioner was eligible and entitled to the entire amount, which it claimed, but we are presuming that it was eligible for grant of entire claim, which it has submitted.

9. With these observations, the writ petition stands disposed of.