
(2012) 09 KAR CK 0004

In the Karnataka High Court

Case No : Writ Petition No. 3522 of 2002 (T-TAR)

Chaparral Health Services Ltd.

APPELLANT

Vs

Union of India and Another

RESPONDENT

Date of Decision : 03-09-2012

Acts Referred:

Citation : (2013) 18 GSTR 398

Hon'ble Judges : H.G. Ramesh, J

Bench : Single Bench

Advocate : Kiran S. Javali, for the Appellant;

Judgement

H.G. Ramesh, J.—This writ petition is directed against the order dated November 20, 2000 (annexure E) passed by the Deputy Director General (Medical). By the impugned order, it is held that the petitioner institution has failed to fulfil the post import conditions and therefore it is not eligible to retain the customs duty exemption certificates issued under Notification No. 64/1988-Customs, dated March 1, 1988, Accordingly, the certificates referred to in the impugned order have been withdrawn as cancelled. The pending applications of the petitioner for issue of certificates to import various equipment as per details, at annexure II therein-are also rejected.

2. I have heard Shri Kiran S. Javali, learned counsel appearing for the petitioner and perused the impugned order at annexure E. The respondents are unrepresented.

3. The sole contention urged by the learned counsel appearing for the petitioner is that the aforesaid order at annexure "E" was passed without affording an opportunity of hearing to the petitioner. In support of the writ petition, he referred to the order of the hon"ble Supreme Court dated October 24, 2007 in Civil Appeal No. 7284/2005 (Sir Gangaram Trust Society v. Union of India). He referred to the following observations made therein:

Prima facie, we were of the view that the Director General Health Services (for

short, "DGHS") had withdrawn/cancelled the exemption certificate given to the appellants from payment of customs duty on import of medical instruments in terms of Notification No. 64/1988-Customs, dated March 1, 1988 in violation of the principles of natural justice.

Mr. Amrendra Sharan, learned Additional Solicitor General, after taking instructions, States that the impugned order of the High Court as well as DGHS be set aside and the case be remitted back to the DGHS to pass a fresh order in accordance with law after affording due opportunity to the appellants to put forth their point of view. That the appellants shall be supplied a copy of the inspection report carried out on January 17, 18, 2001.

In view of the statement made by the learned Additional Solicitor General, these appeals are allowed; impugned orders of the High Court and DGHS are set aside and the case is remitted back to the DGHS to pass a fresh, order in accordance with law after affording due opportunity to the appellants to put forth their case. All contentions are left open.

4. He also relied upon a judgment of this court in Inys Medical Research Society Vs. Dir. General of Health Services, Accordingly, he prayed that the impugned order may be set aside and the matter may be remitted to the Director General of Health Services for reconsideration in accordance with law after affording an opportunity of hearing to the petitioner to put forth its case.

5. I find force in the contention of the learned counsel appearing for the petitioner. Admittedly, no opportunity of hearing was afforded to the petitioner. In the light of the judgments referred to above, I deem it appropriate to make the following order:

The impugned order dated November 20, 2000 (annexure E) referred to above is set aside; the matter is remitted to the Director General of Health Services for reconsideration in accordance with law after affording an opportunity of hearing to the petitioner.

Petition disposed of.