

(2014) 02 SC CK 0117

In the Supreme Court Of India

Case No : Civil Appeal No. 3413 of 2006.

Commissioner of Taxes, Jaipur - Appellant @HASH Vikas Wsp Ltd.

Date of Decision : 27-02-2014

Acts Referred:

Citation : (2015) 323 ELT 669

Hon'ble Judges : H.L. Dattu and S.A. Bobde, JJ.

Bench : Division Bench

Advocate : S/Shri. Dr. Manish Singhvi, AAG for Irshad Ahmad and Aruneshwar Gupta (NP), Advocates, for the Appellant; Shri. Jeevan Prakash, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

1. The Revenue is before us in this appeal against the judgment and order passed by the High Court of Judicature for Rajasthan at Jodhpur in D.B. Civil Writ Petition No. 2391 of 1997, dated 7-10-2003.

2. The facts in nutshell are : A Gwar Gum Powder unit was set up by the respondent at Sri. Ganganagar, Rajasthan on 22-6-1988 with a capacity of 7 Metric Tonnes (MT) which started its commercial production on 18-2-1989. On 29-9-1990, the respondent set up another unit with the capacity of 7 MT. The cumulative capacity of two plants became 14 MT gwar gum powder production per day. Thereafter, the respondent was converted into public limited, under the name and style of M/s. Vikas WSP Ltd.

3. The respondent by application dated 8-9-1992 applied for registration before the Directorate of Ministry of Industries, Government of India to establish a 100% Export Oriented Unit with the production capacity of 42 MT gwar gum powder per day. To reach this capacity, a new plant with the capacity of 28 MT production per day was set up. Thereafter, the respondent again started its commercial production from 24-6-1994 only after its registration as 100% Export Oriented Unit.

4. A notification dated 13-6-1994 came to be issued by the State Government in

exercise of its powers under Section 4(2) of the Rajasthan Sales Tax, 1954 (for short, "the Act") providing exemption from tax on the sale or purchase made by a 100 % Export Oriented New Manufacturing Unit.

5. The respondent/assessee claimed exemption on all purchases of raw material made in respect of all the three units. The Assessing Officer accepted the claim made by the respondent and granted exemption on all purchases of raw material made in respect of all the three units with production capacity of 42 MT. However, the Commissioner, Commercial Taxes, Rajasthan (for short, "the Commissioner") set aside the assessment order passed by the Assessing Officer in exercise of its power under Section 87 of the Act.

6. Aggrieved by the order passed by the Commissioner the respondent/assessee preferred appeal before the Rajasthan Taxation Tribunal, Jodhpur (for short, "the Tribunal"). The Tribunal partly allowed the appeal by granting benefit of tax exemption with regard to manufacturing unit with production capacity of 28 MT but denied the claim of tax exemption with regard to the manufacturing unit with production capacity of 14 MT gwar gum powder per day.

7. Aggrieved by the order so passed by the Tribunal the revenue preferred Writ Petition before the High Court. The respondent/assessee also preferred their cross appeal. The High Court in its impugned judgment and order dismissed the writ petition filed by the revenue and allowed the writ petition filed by the respondent/assessee. The High Court modified the order passed by the Tribunal by granting benefit of notification dated 13-6-1994 on purchases of raw material for all the units.

8. Against the aforesaid judgment and order, the Revenue is before us in this appeal.

9. Heard learned counsel for the parties to the lis.

10. After going through the judgment and order passed by the High Court we are of the opinion that the High Court has not committed any error, whatsoever, which would call for our interference. Accordingly, the Civil Appeal being devoid of any merit deserves to be dismissed and is dismissed accordingly.

11. Ordered accordingly.