
(1995) 08 MP CK 0049
In the Madhya Pradesh High Court
Case No : M.P. No. 114 of 1994

Firm Essar Steels

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 18-08-1995

Acts Referred:

Central Excises and Salt Act, 1944 — Section 11A
Constitution of India, 1950 — Article 226, 227

Citation : (1995) 51 ECC 120

Hon'ble Judges : A.R. Tiwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

A.R. Tiwari, J.—This is a petition under Articles 226 and 227 of the Constitution of India.

2. Briefly stated, the facts of the case are that the petitioner is a firm registered under the Indian Partnership Act. The petitioner firm has set up a factory at Mandsaur to manufacture twisted bars. The products of the petitioner are subject to Central Excise Duty under the Central Excise Tariff. The respondent No. 2 passed the order dated 7.8.1993 (Annexure I) demanding duty of Rs.1,09,761/- under Rule 9(2) of the Central Excise Rules, 1944 read with proviso to Section 11A of Central Excises and Salt Act, 1944 and also imposed penalty of Rs. 20,000/-. The petitioner felt that it is entitled to exemption under Notification No. 202/88. Dubbing the aforesaid order (Annexure I), as illegal, the petitioner has filed this writ petition seeking quashment of the order and? (illegible) declaration about exemption.

3. The respondents have filed the return in opposition.

4. I have heard both the sides.

5. The counsel for the respondents raised a preliminary objection on the ground that the aforesaid order is impugnable by the petitioner by way of an appeal

permissible under the law and as such, two parallel proceedings are not tenable. The counsel for the petitioner admitted that an appeal has been filed against the aforesaid order (Annexure-I) and that the same is pending.

6. Parallel proceedings are not normally permissible under the law. It is delinked from other petitions as mentioned in order dated 1.2.1994 due to parallel proceedings.

7. In *Carl Still G.M.B.H. and Another Vs. The State of Bihar and Others*, , it is held as under:

(iii) if a statute sets up a tribunal and confides to it jurisdiction over certain matters and if a proceeding is properly taken before it in respect of such matters, the High Court will not, in the exercise of its extraordinary jurisdiction under Article 226, issue a prerogative writ so as to remove the proceedings out of the hands of the Tribunal or interfere with their course before it. But, when proceedings are taken before a Tribunal under a provision of law, which is ultra vires, it is open to a party aggrieved thereby to move the Court under Article 226 for issuing appropriate writs for quashing them on the ground that they are incompetent without his being obliged to wait until those proceedings run their full course. *The State of Bombay and Another Vs. The United Motors (India) Ltd. and Others*, & *Himmatlal Harilal Mehta Vs. The State of Madhya Pradesh and Others*, and *The Bengal Immunity Company Limited Vs. The State of Bihar and Others*, , Rel. on.

8. In *State of U.P. and another Vs. Labh Chand*, , it is held that:

When a statutory Forum or Tribunal is specially created by a statute for redressal of specified grievances of persons on certain matters, the High Court should not normally permit such persons to ventilate their specified grievances before it by entertaining petitions under Article 226 of the Constitution is a legal position which is too well settled.

9. In view of the pendency of the appeal, it is not proper to examine the merits of the matter or to adjudicate upon the question which is required to be answered by the Appellate Authority constituted under the relevant Act.

10. In the result, this petition is dismissed as incompetent leaving the petitioner free to pursue the appeal presented by it and obtain adjudication of the issue, common in this petition as well as in appeal, from the Appellate Authority.

11. This petition is, therefore, dismissed as improper and incompetent with liberty as above, but without any orders as to costs.