
(2002) 04 P&H CK 0016
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 5821 of 2002

Khurania Agro India

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 10-04-2002

Acts Referred:

Haryana General Sales Tax Act, 1973 — Section 13B
Haryana General Sales Tax Rules, 1975 — Rule 28A(5)

Citation : (2006) 146 STC 438

Hon'ble Judges : N.K. Sud, J;G.S. Singhvi, J

Bench : Division Bench

Advocate : D.D. Verma, for the Appellant;

Final Decision : Dismissed

Judgement

G.S. Singhvi, J.—This is the second round of litigation by the petitioner in the matter of grant of eligibility certificate under the Haryana General Sales Tax Act, 1973 (for short, "the Act") read with Haryana General Sales Tax Rules, 1975 (for short, "the Rules").

2. The petitioner is the sole proprietorship concern set up for manufacture and sale of rice. In 1996, it applied for issuance of eligibility certificate for availing tax exemption in terms of Section 13-B of the Act read with Rule 28-A(5) of the Rules. The Lower Level Screening Committee (for short, "LLSC") rejected the petitioner's application on the ground of non-production of change of land use certificate (for short, "CLU certificate"). The appeal filed by it was dismissed by the Higher Level Screening Committee (for short, "HLSC"). The decisions of the LLSC and HLSC were set aside by this Court in C.W.P. No. 2894 of 2000 (Khurania Agro India Pvt. Ltd. v. State of Haryana) and a direction was given to the HLSC to pass fresh order after hearing the representative of the petitioner.

3. In compliance of the court's order, the petitioner's case was considered by the HLSC in its 75th meeting held on August 23, 2001 and September 6, 2001

and by a detailed order dated January 25, 2002 (annexure P. 12), its request for grant of eligibility certificate was again rejected on the ground of non-production of CLU certificate.

4. Shri D.D. Verma assailed the decision of the HLSC mainly on the ground that the reason assigned for rejecting the petitioner's prayer for issuance of eligibility certificate is legally untenable. Learned Counsel argued that the land on which the petitioner has set up the industry falls within the municipal limits and, therefore, it is not required to obtain the CLU certificate. In support of his argument, Shri Verma relied on the judgment of this Court in *State of Haryana v. Kartar Singh* 1989 PLJ 35. He also referred to annexures P13 to P14-A to show that land of the petitioner falls within the municipal limits of Kaithal.

5. In our opinion, there is no merit in the argument of the learned Counsel.

6. A look at the order under challenge shows that HLSC had rejected the petitioner's plea for exemption from production of CLU certificate by assigning the following reasons:

7. The advocate contended that the unit falls within municipal limit of Kaithal town. The committee observed that the letter issued by the Executive Officer, Municipal Committee, Kaithal, dated July 4, 2001 clearly indicates that the appellant unit falls within the additional limit of Municipal Committee. This additional limit was extended on December 31, 1997 by way of notification dated March 19, 1996. On that date this area falls in the limit of Controlled Area and additional limit of Municipal Committee has been extended on December 31, 1997 which is clearly shown by the letter of executive officer of Municipal Committee. It has already been decided above by the committee that as per revenue laws land is classified into two categories, i.e., *abadi deh* within the *lal dora* and land outside *abadi deh* which is classified as agricultural land. When an area is notified as controlled area under the Punjab Scheduled Roads and Controlled Areas Act, 1963, the controlled area comprises of agricultural land outside *lal dora* in case of villages (and area comprises of agricultural land outside in case of villages) and area outside municipal limit in case of town under the Punjab Scheduled Roads and Controlled Areas Act, 1963, change of land use is required for setting up a unit in all types of zones be it agricultural, residential or industrial. Here it is relevant to clarify that agricultural zone and agricultural land are not synonymous and a land falling in industrial zone would continue to be agricultural land and CLU would still be required under the Punjab Scheduled Roads and Controlled Areas Act, 1963. In the present case the unit is situated outside original municipal limits and within controlled area. The nature of land, therefore, is agricultural and permission in form of CLU for changing the use to non-agricultural is mandatory.

7. In our view the reasons recorded by HLSC are germane to the provisions of Rule 28-A(5) read with form ST-70 makes the production of CLU certificate mandatory condition for grant of eligibility certificate. The petitioner has not

controverted the fact that it has set up the industry in 1996 and the municipal limits were extended in notification dated December 31, 1997. Therefore, the petitioner cannot avoid its responsibility to produce CLU certificate from the competent authority and we do not find any reason to upset A the order of HLSC.

8. No other point has been argued.

9. For the reasons mentioned above, the writ petition is dismissed.