
(1999) 08 AHC CK 0030
In the Allahabad High Court
Case No : C.M.W.P. No. 3842 of 1992

Modi Spg. and Wvg. Mills Co. Ltd.

APPELLANT

Vs

Nagar Palika, Modi Nagar and another

RESPONDENT

Date of Decision : 23-08-1999

Acts Referred:

Sick Industrial Companies (Special Provisions) Act, 1985 — Section 22(1), 22(3)

Citation : (1999) 4 AWC 3374 : (1999) AWC 3374 : (1999) 3 UPLBEC 2083

Hon'ble Judges : Lakshmi Bihari, J; Binod Kumar Roy, J

Bench : Division Bench

Advocate : Bharti Sapru, K. Gulati, Rakesh Sawhney and Sudhir Chandra, for the Appellant; P. Mittal, for the Respondent

Judgement

Binod Kumar Roy and Lakshmi Bihari, JJ.—The prayer of the petitioner is to quash the order dated 15th February, 1992 passed by the Executive Officer. Nagar Palika, Modi Nagar contained in his letter dated 15th June, 1992 (appended as Annexure-5) directing the petitioner to deposit the amount mentioned therein as house-tax. A further prayer has been made to prohibit the respondents from taking any steps or proceedings in any manner in the nature of execution, distress or the like against its properties for recovery of the amount due under the aforementioned impugned order without the prior consent of the BIFR u/s 22(1) of the Sick Industrial Companies (Special Provisions) Act, 1985.

2. Heard Miss. Bharti Sapru, learned counsel appearing on behalf of the petitioner and Mr. Pankaj Mittal, learned counsel appearing on behalf of respondent Nos. 1 and 2.

3. The main thrust of the submission of Miss. Bharti Sapru was that the Issue urged on behalf of the petitioner stands answered in its favour by the pronouncement of the Supreme Court in The Gram Panchayat and another Vs. Shree Vallabh Glass Works Ltd. and others, . Inasmuch as against the decision of the Bombay High Court in Shree Vallabh Glass Works Ltd. Vs. State of Maharashtra and others, . which also repelled the similar contention raised by Mr.

Mittal in regard to applicability of Section 22(3) of the Act hereinbefore and thus this writ petition is fit to be allowed.

4. The contention of Mr. Mittal, on the other hand, was that true it is that Section 22(3) of the Act which according to him applies and no relief can be claimed beyond seven years, was considered by the Bombay High Court and similar argument made before the Bombay High Court was rejected but there being no pronouncement in this regard by the Supreme Court in the aforementioned case the contention of Miss. Bharti Sapru is not fit to be allowed and accordingly this writ petition be dismissed.

5. In our opinion, the view taken by the Bombay High Court in regard to non-applicability of Section 22(3) of the Act stands approved by the Supreme Court when it made following observations in Gram Panchayat supra :

"In our opinion, the High Court was justified in quashing the recovery proceedings which was against the property of the Company"

6. Having given our anxious consideration, we agree with the view taken by the Bombay High Court which stands approved by the Supreme Court holding non-applicability-of clause (3) of Section 22 of the Act.

7. In the result, we allow this writ petition and quash the order impugned but in the peculiar facts and circumstances without making any order as to cost.