(2000) 07 RAJ CK 0045

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1948 of 2000

M/s. Abu Synthetics Pvt. Ltd. APPELLANT

Vs

State of Rajasthan and Others RESPONDENT

Date of Decision : 10-07-2000

Acts Referred:

Citation : (2000) 3 WLN 143

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Advocate : Vineet Kothari, for the Appellant;

Judgement

Shethna, J.—The petitioner is a company which was doing the business of manufacture and sale of P.P. Sutli (Dori) since 1987. It is the case of the petitioner that a change in the management was effected in 1993 and with the change, the present management also changed the products of P.P. Sutli to Canvas Shoes and Chappals which according to the petitioner was done with the permission from DIC, RFC and RIICO. It is the further case of the petitioner that it was granted benefit of sales tax exemption under Incentive Scheme. 1987 vide notification dated 23.5.87 (Annex.3). The petitioner was also granted the Eligibility Certificate (EC) and during the period from 1.4.88 to 31.3.1994, the previous management availed the exemption of Rs. 1,44,927/-.

(2). Proceedings were initiated against the petitioner under Cl.4(e) r/w cl. 9(b) of the Scheme on the ground that it did not maintain the average production for next five years as required under the Scheme and, therefore, the exemption availed under the scheme on the sale of P.P. Sutli was lost and the company was Liable to pay the entire amount of exemption with interest.

(3). It was submitted by learned counsel Mr. Kothari for the petitioner that it was the earlier management of the petitioner company which availed the benefit, therefore, the liability, if any, cannot be fastened on the present management of the petitioner. This submission of Mr. Kothari cannot be accepted for the simply reason that the petitioner company remains the same. The change in the management of the company does not make any difference. It is the company which is responsible and it has to satisfy the demand made by the department.

(4). Learned counsel Mr. Kothari next submitted that with the permission of DIC, RFC and RIICO, the change in production from P.P.Sutti to Canvas Shoes and Chappals was effected by the company, therefore, the petitioner is not liable. He also submitted that the reply of the petitioner was not at all considered by the authority while passing the impugned order at Annex. 8 dated 31.3.99.

(5). This submission of Mr. Kothari has no substance because it is clear from the impugned order at Annex.8 that the reply of the petitioner was considered by the authority while passing the impugned order at Annex.8 wherein it is clearly mentioned that there was a clear breach of clause 4(e)(1) of the 1987 scheme.

(6). This is finding of fact which cannot be gone into by this Court in its writ jurisdiction as this Court is not sitting in appeal over the impugned order passed by the authority.

(7). In view of the above discussion, I do not find any substance or merits in this petition and accordingly, this petition fails and is dismissed.

(8). Stay petition is also dismissed.

