(2016) 04 OHC CK 0037

In the Orissa High Court

Case No : W.P.(C) No. 13503 of 2001

M/s Balasore Solvents Pvt. Ltd. APPELLANT

Vs

State of Odisha RESPONDENT

Date of Decision : 27-04-2016

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2016) 2 ILRCuttack 92

Hon'ble Judges : S. Panda, J.

Bench : Single Bench

Advocate : M/s. A.K. Ray, S. Ray, S. Dey, A. Mohanty, S.P. Das, and M.P. Jena, Advocates, for the Petitioners; Addl. Government Advocate, for the opposite parties

Final Decision : Disposed Off

Judgement

S. Panda, J.—The petitioner in this Writ Application challenged the order dated 01.8.2001 passed by the Government of Odisha in the

Department of Industries, rejecting the application of the petitioner-Unit for grant of Eligibility Certificate to avail the incentives as declared under

Industrial Policy Resolution, 1996.

2. The facts leading to this application as narrated are as follows:-

The petitioner-Company set up a unit at Banparia in the district of Balasore for manufacturing of ''De-Oiled Cakes'', which is to be used as a

Poultry feed, Cattle feed, Fishmeal and organic manure, being allured and attracted to the package of incentives declared under Industrial Policy

Resolution, 1996. The petitioner-Unit started its commercial production w.e.f. 07.7.1998. The said unit required Oil Cakes as raw material. The

Oil Cakes are processed to produce ''De-Oiled Cakes'', which is the finished product of the petitioner-Unit. Accordingly, the manufacturing

process is entirely different from the Oil Mills which produces Oil from Oil Seeds. The petitioner-Unit uses the raw material i.e. Oil Cake only to

produce further finished product i.e. ''De-Oiled Cakes''.

3. Learned counsel for the petitioner submitted that since the petitioner-Unit is engaged to recycle the waste product, it is not coming under the

definition of Oil Mill. The Unit is being different from the Oil Mills is eligible to get Sales Tax incentives under Industrial Policy Resolution, 1996.

However, opposite party no. 1 by misinterpreting the same, rejected the application of the petitioner by the impugned order to receive such

incentives. Earlier the Director of Industries, Odisha, Cuttack vide letter dated 15.12.1998 under Annexure-4 has recommended the case of the

petitioner-Unit for issuance of Eligibility Certificate to receive the incentives as the manufacturing process of the petitioner-Unit is different from that

of an Oil Mill. He further submitted that besides under Industrial Policy Resolution, 1982 the Oil Mill/Expelling of less than 10 M.T plant in put

capacity (Sl. No. 11) is not eligible for incentives but extraction of Oil through Solvent Extraction process or refining unit both are eligible for

incentives. In subsequent Industrial Policy Resolutions, 1992 and 1996 in the list of ineligible unit the Oil Mills and refining units are both included

not to get the benefits. However, no where it was mentioned that the Solvent Extraction Process Unit is ineligible to get incentives as such the

impugned order is liable to be set aside.

4. Learned Addl. Government Advocate however supported the impugned order and submitted that in Industrial Policy Resolution, 1996 the Oil

Mill was listed at Sl. No. 23 under ineligible category of industry. The Government enlisted all Oil Mills including activities of extraction of Oil are

not eligible to get incentives under the said I.P.R, 1996. The petitioner-Unit is coming under the said category, as such rightly the impugned order

was passed. However, in the counter affidavit filed by opposite party nos. 1 to 4 they have admitted that the petitioner-Unit is involved in

manufacturing process of Solvent Extracted Oil from Oil Cakes and produce De-Oiled Cakes.

5. In view of the rival submission of the parties and after going through the materials available on record, it reveals that the petitioner-Unit is

involved in manufacturing process which is different from the Oil Mill. The petitioner-Unit is manufacturing De-Oiled Cakes from Oil Cakes, as

such they recycle the waste products i.e. Oil Cakes to De-Oiled Cakes to be used as organic manure, cattle feed etc. The unit is not using Oil

Seeds for manufacturing oil. Therefore, the Unit is not coming under the purview of Oil Mill as well as under the definition of Oil Mill as enlisted at

Sl. No. 23 of Industrial Policy Resolution, 1996. It is a Solvent Extraction Process Unit and not an Oil Mill. Accordingly, this Court sets aside the

impugned order and remits the matter back to opposite party no.1 with a direction to issue Eligibility Certificate in favour of the petitioner-Unit to

get incentives as declared under Industrial Policy Resolution, 1996, as expeditiously as possible, preferably within a period of four weeks from the

date of production of certified copy of this order. The Writ Application along with Misc. Case is accordingly disposed of.