(2010) 12 JH CK 0009

In the Jharkhand High Court

Case No : Writ Petition (T) No. 6580 of 2003

Natraj Iron and Casting Ltd. — APPELLANT

Vs

State of Jharkhand and Others — RESPONDENT

Date of Decision : 09-12-2010

Acts Referred:

Citation : (2011) 1 JCR 434

Hon'ble Judges : Bhagwati Prasad, C.J;Prashant Kumar, J

Bench : Division Bench

Judgement

1. In this writ petition, the Petitioner has claimed that the Respondents have not permitted the unit deferment of payment of sales tax in relation to certain heads including the consideration of the unit as to be non-metallurgical.

2. We have heard the parties and have given our thoughtful consideration. By order dated 22.6.2005, Petitioner has been given protection by this Court.

22.6.2005 Prima facie, it appears to us that the decision of the State Level Committee of the Sales Tax Department holding the unit of the Petitioner not to be a Metallurgical unit is incorrect. As far as computation of the entire figure for the purposes of sales tax deferment, the same will be considered at the time of final hearing of the writ application. However, having regard to our prima facie finding that the unit of the Petitioner is a Metallurgical Industry, we are of the view at this stage that the benefit of at least the amount which has been allowed to the Petitioner should be enhanced by 50%, having regard to the provisions of Clause 16.2 of the Industrial Policy, 1995. We accordingly direct that the writ application be heard on a priority basis on 25th July, 2005, upon counter-affidavit being filed to the I.A. (I.A. No. 1574/05) filed in Court today within two weeks from date and rejoinder both to the counter-affidavit as filed in the writ application and to the counter-affidavit, which may be filed as far as I.A. is concerned, may be filed within a week thereafter.

Pending hearing of this matter, the Respondents shall allow the writ Petitioner the benefit of deferment to further extent of 50% of the amount already allowed to the Petitioner in terms of the minutes of the meeting of the State Level Committee held on 22nd December, 1995. The Respondents shall also issue necessary Declaration Forms within the said amount.

Let copies of the order be given to the learned Advocates on record for the parties.

3. We think, as regards the character of the unit, the finding of this Court in the interim order is one which requires to be confirmed, because there is no definition of metallurgy given in any of the document, which would be relevant for deciding the controversy. Since the Petitioner unit is working in the field of metals and dictionary definition of metallurgy as relied upon by the Petitioner has a very close connection with the kind of assignment the Petitioner unit is doing, therefore, this Court feels that non-consideration of the unit as metallurgical unit would not be commensurate with the facts.

The definition/meaning of word metallurgy and metallurgical given in "The Chamber Dictionary" is quoted below.

Metallurgy, n. art and science applied to metals, including extraction from ores, refining, alloying, shaping, treating and the study of structures, constitutional and properties adj. metallurgical or metallurgical relating to metallurgy. "Metallurgist.

4. To that extent, we are prepared to allow the petition.

5. As regards the non-allowing of other heads such as electrical fixtures, laboratory and rates etc. we do not think that such kind of consideration was available to the Petitioner, therefore, that is not appropriate to be allowed.

6. In the result, the total 150% deferment, having been allowed, i.e., 100% by Respondents and 50% by this Court by interim order is maintained. The petition is, accordingly, disposed off.

