

(2001) 07 JH CK 0102

In the Jharkhand High Court

Case No : Writ Petition (C) No's. 3310 and 3312 of 2001

Pey Pey Icecreams and Another

APPELLANT

Vs

J.S.E.B. and Others

RESPONDENT

Date of Decision : 27-07-2001

Acts Referred:

Citation : (2001) 07 JH CK 0102

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : M.S. Mittal and A.K. Yadav, for the Appellant; V.P. Singh and Rajesh Kumar, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—In both the cases, as the question relating to exemption from minimum guarantee charges and its refund, they were heard together and are being disposed of by this common order.

2. According to petitioner. M/s. Pey Pey Icecreams is a low tension consumer of the Board, having connected load upto 25 H.P. The Board earlier raised bill in respect to minimum guarantee charges which the petitioner had already paid. According to petitioner, it is entitled for exemption and refund of amount already paid in terms with Industrial Policy. 1993 in the light of decision of the Supreme Court in K.D. Industries v. B.S.E.B., reported in 2001 (2) J C R 318 (SC) : 2000 (1) JLJR 678 (SC).

3. The petitioner, M/s. Amba Ceramic Works has made similar prayer and claims exemption in terms with Industrial Policy, 1995 in the light of aforesaid decision in M/s. K.D. Industries (supra). It is stated that this petitioner is also covered by Clause 9.6 of the Industrial Policy. 1995, L.T. consumer having connected load of 60 H.P.

4. Counsel for the Board raised preliminary objection relating to refund, the petitioner having earlier deposited the amount. However, such objection cannot be accepted in view of recent decision in M/s. K.D. Industries, the ratio of which

to be applied in all similarly situated cases.

5. The Court has taken into consideration the other objection raised by the counsel for the Board that petitioner, M/s. Amba Ceramic Works without approaching the authorities, has moved this Court for issuance of writ of mandamus.

6. Having regard to the facts and circumstances, the petitioners are given liberty to approach the concerned General Manager-com-Chief Engineer, who in his turn, is directed to decide the claim by a reasoned order, taking into consideration the decision of the Supreme Court in M/s. K.D. Industries (supra) 2001 (2) J C R 318 (SC), and other relevant facts in respect to each of petitioners.

7. Such decision be taken and communicated to the petitioners within a period of two months" from the date of receipt of such representation to be filed alongwith a copy of this order.

8. So far as M/s. Pey Pey Icecreams is concerned, if it is decided to refund the excess amount, the authority will refund the case within one month from the date of decision.

9. In the case of M/s. Amba Ceramic Works, if such amount is found refundable, can be adjusted against future bill. In such case also, if the petitioner, M/s. Amba Ceramic Works is entitled for exemption, the authorities will not raise the minimum guarantee charges against the current and future bill, till the industry is entitled for exemption.

10. Both the writ petition stand disposed, of with the aforesaid observations/ directions.