(2006) 07 UK CK 0005

In the Uttarakhand High Court

Case No : Writ Petition No. 86 of 2006 (M/B)

PG International APPELLANT

Vs

Union of India (UOI) and Others RESPONDENT

Date of Decision : 31-07-2006

Acts Referred:
Central Sales Tax Act, 1956 — Section 14

Citation : (2007) 1 UC 202

Hon'ble Judges : Rajeev Gupta, C.J;J.C.S.Rawat, J

Bench : Division Bench

Advocate : P.R. Mullick, for the Appellant; Arvind Vashistha, Assistant Solicitor General and J.P. Joshi, Addl. Chief Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

Rajeev Gupta, C.J.

Sri P.R. Mullick, Advocate for the Petitioner.

Sri Arvind Vashistha, Assistant Solicitor General for Respondents No. 1 and 3. Sri J.P. Joshi, Addl. Chief Standing Counsel for Respondent No. 2.

1. They are heard.

2. The Petitioner Company has filed this writ petition for the following reliefs:

a. to issue a writ or order in the nature of certiorari quashing the Show Cause Notice dated 6-10-2005 (Annexure-VII) issued by Respondent No. 3 directing the Petitioner to show cause as to why duty amounting to Rs. 6,31,16,456.00 should not be recovered for the period September 2004 to 9-11-2004.

b. to hold that the Petitioner is eligible for fiscal benefit of Central Excise Holiday under Notification 50 of 2003 dated 10-06-2003 as amended.

c. to issue any other writ or direction, which this Hon''ble Court may deem fit and proper in the circumstances of the present case.

3. The Petitioner, in substance, is seeking quashing of the Show Cause Notice dated 06-10-2005 (Annexure -7), whereby Respondent No. 3 has asked the Petitioner Company to show cause as to why excise duty amounting to Rs. 6,31,16,456/-should not be recovered for the period September 2004 to 9th of November, 2004.

4. The Apex Court in the case of Trade Tax Officer Saharanpur v. Royal Trading Company reported in (2005) 11 SCC 518 while considering scope of interference at the stage of issuance of show-cause notice observed in para 1:

1. These appeals are against the judgment of the Allahabad High Court dated 21-1-2000. The Respondent Company were clearing their goods on the basis that they were leather sheets within the meaning of Section 14 of the Central Sales Tax Act. A show-cause notice was issued to them claiming that the items cleared by them were not leather sheets and that a higher duty was required to be paid. The Respondents filed a writ petition challenging the issuance of the show-cause notice. The High Court ignoring the well-settled law that against a mere issuance of the show-cause notice a Court should be reluctant to interfere, purported to go into the facts and quashed show-cause notice in a mechanical way. In our view the approach of the High Court was entirely wrong. All that had been done was that a show cause was issued. After the Respondents filed their reply, the notice may have been dropped or if the reply was not satisfactory, based on the reply further inquiries could have been made by the Appellants. Adjudication proceedings must not be stalled in the manner done by the High Court.

5. In view of the above quoted dictum of the Apex Court, the writ petition is liable to be dismissed summarily.

6. It would, however, be open to the Petitioner to file reply to the show-cause notice and in case an adverse order is passed against the Petitioner, to challenge the same before an appropriate forum under the relevant provisions of law.

7. With the above observation, the writ petition stands dismissed summarily.

8. With the above order, CLMA No. 454 of 2006 also stands disposal of.

