(2001) 07 P&H CK 0027

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 12966 of 2000

Prime Poly Leather Pvt. Ltd.	APPELLANT
Vs	
State of Haryana and Others	RESPONDENT

Date of Decision : 04-07-2001

Acts Referred:
Haryana General Sales Tax (Second Amendment) Rules, 1999 — Rule 6

Citation : (2001) 124 STC 381

Hon'ble Judges : Jawahar Lal Gupta, J;Ashutosh Mohunta, J

Bench : Division Bench

Advocate : D.D. Verma, for the Appellant; Palika Monga, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

Jawahar lal gupta, J.—The petitioner is running an industrial unit. It applied for the issue of an eligibility certificate so as to avail of certain

concessions regarding exemption from payment of sales tax, etc., granted by the Government. The petitioner''s application was rejected vide order

dated January 6, 2000. A copy of this order has been produced as annexure P7 with the writ petition. Aggrieved by the order the petitioner filed

an appeal. It was dismissed vide order dated July 11, 2000. A copy of this order has been produced as annexure P9 with the writ petition.

Aggrieved by the two orders the petitioner has approached this Court with the present writ petition. It prays that these orders be quashed and that

the respondents be directed to release the admissible benefits.

2. Respondents have filed a written statement contesting the petitioner''s claim.

3. Counsel for the parties have been heard.

4. A perusal of the order at annexure P9 shows that the relief has been declined only on the ground that there was ""delay of 3 months 16 days in

the submission of application to GMDIC"" (General Manager, District Industries Centre). It is only on this basis that the respondents have rejected

the petitioner''s claim. The short question for determination is--have the respondents erred in rejecting the petitioner''s claim ?

5. Learned counsel for the petitioner has produced a copy of the Gazette notification dated May 18, 1999 issued by the State of Haryana by

which the Haryana General Sales Tax (Second Amendment) Rules, 1999 were notified. The provision for submission of an application was made

in Rule 6(a). It was, inter alia provided that the eligible industrial unit shall make an application ""to the General Manager, District Industries Centre

within 90 days of the date of its going into commercial production or the date of coming into force of this rule, whichever is later"". The Rules

appear to have been published in the Haryana Government Gazette (Extraordinary) on September 14, 1999. Still further, it is also clear that the

petitioner had submitted the application on November 25, 1999. Thus, the application had been submitted well before the expiry of 90 days from

the date of the publication of the amending Rules.

6. Ms. Palika Monga, learned counsel for the respondents, submits that these Rules had also been published in May, 1999. These were

inadvertently published for the second time in the Gazette of September 14, 1999. Thus, she submits that the petitioner''s claim had been rightly

rejected.

7. Factually Ms. Monga appears to be right. It appears that the notification had been initially published on May 18, 1999. The same notification

was also published in the Government Gazette of September 14, 1999. The petitioner claims to have noticed the notification of September 14,

1999. It had thereupon submitted the application. Since there was confusion in the office of the Government itself, the petitioner cannot be made to

suffer. The notification having been actually published on September 14, 1999 also, the petitioner is entitled to take advantage of the provisions of

Rule 6(a). It submitted the application within the period as prescribed. The application could not have, thus, been dismissed on the ground of

delay.

8. Even otherwise, the petitioner is for the present only wanting its claim to be considered on merits. If it is eligible, it should not suffer on account

of some default which is not wholly attributable to it.

9. In view of the above, we allow the writ petition. We set aside the impugned orders. The petitioner''s application shall now be considered on

merits and decided in accordance with law. No costs.