(2001) 08 JH CK 0030

In the Jharkhand High Court

Case No : CWJC No. 115 of 2001

Pritam Auto Mech. Private Ltd. APPELLANT

Vs

Bihar State Electricity Board and Others RESPONDENT

Date of Decision : 27-08-2001

Acts Referred:

Citation : (2001) 08 JH CK 0030

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : M.S. Mittal, for the Appellant; V.P. Singh, R. Shankar and M. Kumar, for the Respondent

Final Decision : Allowed

Judgement

The Court

1. Heard learned counsel for the parties.

2. The petitioner claims exemption in payment of AMG charges under the Industrial Policy. 1995 declared by the State of Bihar and adopted by the respondent Bihar State Electricity Board, vide resolution No. 6917 dated 23.9.96.

3. The petitioner earlier moved this Court in CWJC No. 3085/2000(R) for the same relief and for quashing of the bill of the AMG charges. The stand of the respondent-Board was that the petitioner being the LTI consumer was not entitled to the benefit of exemption. The said writ application was disposed of on 14.9.2000 with a direction to the General Manager, Bihar State Area Electricity Board, Jamshedpur to determine the question as to whether the petitioner is HTI consumer or not and is entitled to exemption in payment of AMG charges in terms of clause 9.6 of the Industrial Policy. 1995. Pursuant to that direction the General Manager cum chief Engineer, relying upon the judgment in Subhas Kumar v. BSEB, CWJC No. 1235/97(R) and also the decision rendered in CWJC No. 2262/95(R), held that since the petitioner is LTI consumer, the benefit of the policy could not be extended to the petitioner.

4. Mr. V.P. Singh, learned counsel appearing for the Board, very fairly conceded that in view of the ratio decided by the Supreme Court in the case of K.D. Industries v. BSEB. (20021 1 JLJR 678, the conclusion arrived at by the General Manager cum Chief Engineer cannot be sustained in law and the petitioner would be entitled to get exemption in AMG charges.

5. Having regard to the ratio decided by the Supreme Court in the case referred to hereinabove and also having regard to the fact that the only dispute of determination was whether the petitioner would be treated as HTI consumer or LTI consumer for the purpose of giving benefit of the policy, the matter has been set at rest that the petitioner shall be entitled to get exemption of AMG charges under the aforesaid policy.

6. This writ application is therefore, allowed and the impugned order passed by the General Manager-cum-Chief Engineer is set aside. Consequently the impugned bill of AMG charges is quashed and it is held that the petitioner is entitled for exemption in AMG charges.

7. In the order dated 14.9.2000 passed in CWJC No. 3085/2000(R) the petitioner was directed to deposit 50% of the bill amount with the condition that if the claim of the petitioner is decided in its favour then it would be entitled to refund the said amount together with 10% interest and pursuant to that order the petitioner admittedly deposited 50% of the bill amount in the account of the Bihar State Electricity Board. Since the amount was deposited on 20.9.2000 the respondent Bihar State Electricity Board shall refund the said amount together with interest @10% from the date of such deposit till the payment within 30 days from the date of production of a copy of this order. If the respondent BSEB fails to refund the aforesaid amount within the specified time then the said amount shall carry interest @15% per annum.

8. Petition allowed.

