
(2012) 07 BOM CK 0016
In the Bombay High Court
Case No : Writ Petition No. 6331 of 2012

Raj Chemicals

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 23-07-2012

Acts Referred:

Citation : (2013) 290 ELT 537

Hon'ble Judges : R.Y. Ganoo, J; J.P. Devadhar, J

Bench : Division Bench

Advocate : Kamal R. Bhulchandani instructed by, Kamal and Co, for the Appellant; M.A. Adenwala, for the Respondent

Judgement

1. The petitioner is aggrieved by the impugned order of the Government of India 24th June, 2011 whereby the rebate claimed by the petitioner has been rejected. The Government of India in its order has recorded that on the date on which the personal hearing was scheduled, neither the petitioner nor anybody on behalf of the petitioner was present nor any request made for adjournment of the case.

2. The petitioner has annexed to the Writ Petition two letters dated 5th June, 2011 and 6th June, 2011 which show that the petitioner had sought adjournment on the date on which hearing was fixed by the Joint Secretary to the Government of India. This the contention of the petitioner that the said two letters were sent by Speed Post. However, counsel for the Revenue states that no such letters have been received by the respondents. In any event, the counsel for the petitioner has brought to our notice that the Government of India in a similar case has passed an order on 3rd May, 2011 wherein the appellant therein has been permitted to deposit the rebate amount with facility to recredit the said amount in the Cenvat account of the appellant therein. The petitioner seeks similar relief in the present case.

3. Since the impugned order passed by the Government of India on 24th June, 2011 is an ex parte order and in view of the fact that the Government of India

has not considered its order dated 3rd May, 2011 in the present case, in our opinion, it would be just and proper to set aside the impugned order dated 24th June, 2011 passed by the Government of India and direct the Joint Secretary to the Government of India to hear the matter afresh and pass fresh order in accordance with law. Accordingly, the impugned order dated 24th June, 2011 passed by the Government of India is quashed and set aside and the Government of India is directed to pass fresh order in accordance with law.

4. The petition is disposed of accordingly with no order as to costs. All contentions of both the parties are kept open.