(1989) 09 RAJ CK 0014

In the Rajasthan High Court

Case No : Civil Miscellaneous (Stay) Application No. 18 of 1989 and Civil Special Appeal (Writ) No. 19 of 1989

Shri Ram Oil Extractions Ltd. APPELLANT

Vs

State of Rajasthan and Others RESPONDENT

Date of Decision : 27-09-1989

Acts Referred:
Rajasthan Sales Tax Act, 1954 — Section 4

Citation : (1990) 78 STC 202

Hon'ble Judges : Milap Chand Jain, Acting C.J.;I.S. Israni, J

Bench : Division Bench

Advocate : B.P. Agrawal, for the Appellant; G.S. Bafna, for the Respondent

Final Decision : Allowed

Judgement

1. This appeal is directed against the order of the learned single Judge, dated 6th July, 1989, whereby the petitioner-appellant''s writ petition was dismissed. By the writ petition the petitioner sought a direction to issue eligibility certificate to the petitioner-concern as it fulfils all the requirements for obtaining the same and the petitioner sought quashing of the order of District Screening Committee, dated 6th April, 1988, whereby the petitioner''s application for grant of benefit under the Sales Tax Incentive Scheme for Industries, 1987, was refused.

2. Admittedly, the petitioner-concern is a sick industrial unit as defined under the aforesaid Scheme. We have been referred to the minutes of the meeting of the District Screening Committee (annexure 4), dated 6th April, 1988. The petitioner''s application has been refused on the ground that the unit was first established in village Jaitpura, district Alwar and thereafter it was transferred under the orders of the State Government to Jaipur and even started working at Jaipur, with effect from 14th December, 1986 and the unit got it registered at Jaipur District Industries Centre on 15th January, 1987. The reason assigned by the Committee is that the unit had not completed two years at Jaipur and the earlier working of the unit at Alwar does not fall within the Committee''s field.

Besides that, the Committee has also considered that the unit has taken the benefit of 15 per cent Central subsidy and also obtained interest-free loan. There is no provision in the incentive scheme rendering any sick industrial unit ineligible, if any subsidy is obtained by it or any interest-free loan is obtained. In the definition of the expression "sick industrial unit" as well there is no mention that the period of two years has to be reckoned in a particular district or place. What is provided in the definition of the expression "sick industrial unit" is that it incurred cash losses in two complete accounting years, immediately before 1st April, 1987. Whether industrial unit is situated in two districts, is no consideration. What is required to be seen is that the unit must have incurred cash losses in two complete accounting years. The Screening Committee, thus it appears, did not consider the matter in the correct perspective, as provided under the incentive scheme and the grounds of refusal are not the grounds under that scheme. Therefore, the order of the Screening Committee, refusing the benefits, deserves to be quashed and accordingly this appeal is allowed. The order of the learned single Judge is set aside. Consequently, the order of the District Screening Committee, dated 6th April, 1988 (annexure 4), is quashed and the Committee is directed to grant eligibility certificate to the petitioner-appellant.

