(2002) 09 P&H CK 0019

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 2568 of 2001

Singhal Strips Limited — APPELLANT

Vs

Sales Tax Tribunal and Others — RESPONDENT

Date of Decision : 27-09-2002

Acts Referred:

Constitution of India, 1950 — Article 226
Sick Industrial Companies (Special Provisions) Act, 1985 — Section 15, 16, 17, 22, 25

Citation : (2003) 2 BC 396 : (2003) 113 CompCas 640 : (2005) 139 PLR 471 : (2004) 55 SCL 571

Hon'ble Judges : Virender Singh, J;N.K. Sodhi, J

Bench : Division Bench

Advocate : Rajesh Bindal, for the Appellant; Ritu Bahri, D.A.G., for the Respondent

Judgement

N.K. Sodhi, J.—The petitioner is a limited company incorporated under the provisions of the Companies Act, 1956. It is a registered dealer under the Haryana General Sales Tax Act, 1973, and in pursuance of the orders of assessment passed by the competent authority the amount assessed as tax is sought to be recovered from it. It has filed this petition under Article 226 of the Constitution for a mandamus directing the respondents not to recover the amount because the company is a sick industrial unit and the matter is pending before the Board for Industrial and Financial Reconstruction (BIFR) set up u/s 4 of the Sick Industrial Companies (Special Provisions) Act, 1985 (for short, "the Act"). Reference is made to the letter dated July 23, 2001 (annexure P-2 with the writ petition) addressed by the Registrar of the BIFR to the chairman of the company informing the latter that the reference made u/s 15 of the aforesaid Act stands registered. It is obvious that an inquiry is pending before the BIFR u/s 16 of the aforesaid Act. In view of the bar contained in Section 22 of the Act, the respondents cannot recover the assessed amount without prior permission of the BIFR. In this view of the matter, we dispose of the writ petition with a direction to the respondents not to recover the assessed amount from the petitioner-company without prior permission of the BIFR. This direction will operate till such time the inquiry is pending u/s 16 of the Act and in case any scheme is framed u/s 17 of the Act or is under preparation till such time the scheme is prepared or sanctioned or implemented and even during the pendency of an appeal before the competent authority u/s 25 of the Act. The impugned order annexure P-3 stands modified accordingly. No costs.

Writ petition disposed of.