(2009) 04 SC CK 0117

In the Supreme Court Of India

Case No : Civil Appeal No. 2605 of 2009 (Arising out of SLP (C) No. 16955 of 2008)

State of Haryana and Others — APPELLANT

Vs

Johnson Matthey India Pvt. Ltd. — RESPONDENT

Date of Decision : 16-04-2009

Acts Referred:
Constitution of India, 1950 — Article 226
Haryana General Sales Tax Rules, 1975 — Rule 28C

Citation : (2009) 17 SCC 558

Hon'ble Judges : S. H. Kapadia, J;Aftab Alam, J

Bench : Division Bench

Advocate : Anoop G. Chaudhari, Prabhat Kumar, Sandeep Chaturvei, Arvind Nayyar and Naresh Bakshi, for the Appellant; S. Ganesh S. Prasad, Sudhir Sharma, Sanjeev Sharma and Manu Krishnan, for the Respondent

Final Decision : Allowed

Judgement

1. Leave granted.

2. Civil Writ Petition No. 12075 of 2007 was a Writ Petition filed under Article 226 of the Constitution by M/s Johnson Matthey India Private Limited (respondent herein). In the Writ Petition the prayer was to quash Order dated 7.6.2007 passed by the Director of Industries and Commerce, Haryana, communicating the decision of Higher Level Screening Committee (for brevity, `the Screening Committee') constituted under Rule 28C(o) of Haryana General Sales Tax Rules, 1975. It may be stated that the said Screening Committee had withdrawn the benefit of sales tax concession of Rs. 885.15 lacs, granted in favour of respondent No. 1 herein, pursuant to the decision of the Screening Committee earlier taken on 6th December, 2004 in its 89th meeting. The prayer in the Writ Petition was to maintain the said earlier decision dated 6th December, 2004 in favour of respondent No. 1 which, as stated above, stood subsequently rescinded by the impugned order dated 7 th June, 2007.

3. The narrow controversy which arises in this civil appeal is whether the Unit stood registered with the Department of Industries in terms of Rule 28C(o) in Chapter 4C of Haryana General Sales Tax Rule, 1975, before the cut off date, namely, April 30, 2000?

4. Having heard learned Counsel on both sides, the controversy is with regard to: which is the registering authority contemplated by Rule 28C(o); whether there is a difference between IEM and Registration under the said Rule; whether the competent authority had registered the Unit as required under Rule 28C(o) on or before the cut off date, namely, 30th April, 2000; and whether there is a difference between Application for Foreign Collaboration and IEM conceptually?

5. Having heard learned Counsel on both sides we find that relevant points were neither pleaded nor argued before the High Court. Even requisite documents which were shown to us during the course of hearing by both sides were not placed before the High Court.

6. In the circumstances, without expressing any opinion on the merits of the case and keeping all questions of law open, we set aside the impugned judgment of the High Court and remit the case to the High Court for fresh consideration in accordance with law.

7. Accordingly, we restore Civil Writ Petition No. 12075 of 2007 on the file of the High Court. We give liberty to the parties appearing before us to file additional documents. Liberty is also being given to the parties appearing before us to file additional/fresh affidavits. We are directing respondent herein, who was the original petitioner in the High Court, to implead the Union of India, Ministry of Commerce and Industries, in the above Writ Petition, within a period of four weeks from today. We request the High Court to expeditiously hear and dispose of the above Writ Petition, preferably within six months.

8. Learned senior counsel appearing on behalf the appellant herein fairly states that during the pendency of the Writ Petition before the High Court and for a period of two weeks thereafter, they will not take steps to recover the dues, if any. Accordingly, this civil appeal stands disposed of with no order as to costs.

