

(2015) 04 SC CK 0034

In the Supreme Court Of India

Case No : Civil Appeal Nos. 8841-8844 of 2003 with S.L.P. (C) Nos. 37108-37109 of 2012.

Union of India - Appellant @HASH Dharampal Satyapal Ltd.

Date of Decision : 07-04-2015

Acts Referred:

Citation : (2015) 319 ELT 6 : (2015) 16 SCC 315

Hon'ble Judges : A.K. Sikri and Rohinton Fali Nariman, JJ.

Bench : Division Bench

Advocate : S/Shri Mukul Rohtagi, A.G., Rupesh Kumar, Ms. Madhvi Diwan, Charul Sarin and B. Krishna Prasad, Advocates, for the Appellants; S/Shri Soli J. Sorabjee, Sr. Advocate, Preetesh Kapur, S. Kashyap, Abaya Kashyap, Advocates, Raghav Narayan, Advocate for M/s. Mitter and Mittter Co. and Gopal Singh, Advocate, M/s. Corporate Law Group, Advocate, for the Respondents

Final Decision : Dismissed

Judgement

1. The appellant herein, namely, Union of India vide Memorandum dated 24-12-1997 unveiled a new Industrial policy for the North Eastern Region. In the said policy, in order to give stimulation to the development of Industrial infrastructure in the North Eastern Region, the said region was made tax free zone for a period of ten years giving incentives to those who wanted to establish their industries in the region. Pursuant thereto a Notification was issued on 8-7-1999 granting new industrial units that had commercial production on or after 24-12-1997 and certain types of industrial units that increased their installed capacity after that date, exemption on goods cleared from units located in growth centers and integrated infrastructure Centres.

2. The said Notification was issued under the provision of Central Excise Act as well as Additional Duties of Excise (Goods of Special Importance) Act, 1957 and Additional Duties of Excise (Textiles and Textiles Articles) Act, 1978. However, on 31-12-1999, another Notification was issued whereby exemption of Central Excise was withdrawn in respect of goods under Chapter 21.06 (Pan Masala) and Chapter 24 (tobacco and tobacco substitutes), including cigarettes, chewing

tobacco, etc.

3. This withdrawal Notification was challenged by the respondent by filing the writ petition in the High Court of Guwahati. The learned single Judge dismissed the writ petition. However, the appeal preferred by the respondent has been allowed by the Division Bench by the impugned judgment dated 3-12-2002. In nutshell, the High Court has held that principle of promissory estoppel shall apply and once a promise was given by the Union of India to give the assurance that no such duty would be charged, for a period of 10 years, it was not open for the Union of India to withdraw the same. Challenging that judgment, present appeal is preferred.

4. We, however, find that after the filing of this appeal, certain subsequent events have taken place and as a result thereof, the issue is not even required to be adjudicated upon in the present appeal. It so happened that vide Section 154 contained in Finance Act, 2003, the withdrawal of the benefit was effected from retrospective effect. Validity of Section 154 was considered by this Court in R.C. Tobacco Pvt. Ltd. And Anr. v. Union of India and Another - 2005 (7) SCC 725 = 2005 (188) E.L.T. 129 (S.C.). This Court has upheld the constitutional validity of the aforesaid provision. The effect thereof would be that the respondent would not be entitled to any such benefit by virtue of Section 154 of the Finance Act, 2003, and the impugned judgment of the High Court loses its validity on the aforesaid ground.

5. The appeals are, thus, disposed of with the aforesaid observations.