
(1981) 09 P&H CK 0034
In the Punjab And Haryana At Chandigarh
Case No : Writ Petition No. 4575 of 1980

Vardman Spinning and General Mills Ltd.	APPELLANT
Vs	
Union of India (UOI) and Another	RESPONDENT

Date of Decision : 04-09-1981

Acts Referred:

Constitution of India, 1950 — Article 14, 226
Customs Act, 1962 — Section 58(1), 58(2)

Citation : (1981) 8 ELT 911

Hon'ble Judges : B.S. Dhillon, J

Bench : Single Bench

Advocate : O.P. Goyal, for the Appellant; Amarjit Chaudhry, for the Respondent

Judgement

B.S. Dhillon, J.—In this petition under Article 226 of the Constitution, a prayer has been made for quashing the order dated 21st November, 1980, passed by the Assistant Collector, Central Excise, Ludhiana, copy of which is Annexure P/I.

2. Briefly stated, the facts giving rise to the petition are that the petitioner was granted a private warehouse licence on 22nd July, 1977, which was being renewed from time to time, and the same expired on 31st December, 1980. By the impugned order the petitioner was informed by the Assistant Collector that in view of the opening of the Public Bonded Warehouse under the control of Central Warehousing Corporation, the private Bonded Warehouse Licence granted in favour of the petitioner will not be renewed when the validity of the license of the petitioner expires. The petitioner was, therefore, requested to clear the stocks in hand after payment of duty before the expiry of his licence, and in case he was unable to do so, all the goods in balance in the warehouse will have to be transferred to the Public Bonded Warehouse which had already been appointed for the purpose. The petitioner has challenged this order on the ground that the same is without jurisdiction as this amounts to cancelling of licence. It has been further averred in the petition that the provisions of Clause (a) of Sub-section (2) of Section 58 of the Customs Act, 1962 (hereinafter referred to as the Act), are

ultra vires, being arbitrary and violative of Article 14 of the Constitution on the ground that if a notice is given under Clause (a) for cancellation of the licence, in that case no opportunity of being heard is given, whereas if notice is to be given under Clause (b), in that case, no order can be passed without the licensee having been given a reasonable opportunity of being heard.

3. After hearing the learned counsel for the parties and taking into consideration the various provisions of the Act, it is difficult to hold that the provisions of Clause (a) of Sub-section (2) of Section 58 are arbitrary and thus violative of Article 14 of the Constitution. A reading of the provisions of Sub-section (1) of Section 58 of the Act would clearly go to show that a private warehouse can be licensed by the Assistant Collector of Customs only for storing the imported goods in respect of which facilities for deposit in a public warehouse are not available. If the facilities for deposit of such goods in a public warehouse are available, in that case the provisions of the Act clearly debar the grant, of a licence to a private warehouse. As is clear from the impugned order and so also from the contents of the return filed in the present petition, a public warehouse facility has been made available in Ludhiana and the goods in the private warehouse of the petitioner have been made available facilities for deposit in a public warehouse. This has been so averred in the written statement specifically. The averments made by the petitioner that there is less space in the public warehouse at Ludhiana and, therefore, the facility for deposit of the goods of the petitioner in the public warehouse is not available have been specifically denied in the return, and Annexure "A" has been placed on the record to show that a lot of space is available in the public warehouse at Ludhiana for storing goods stored in the private warehouse of the petitioner. The provisions of Clause (b) of Sub-section (2) of Section 58 of the Act would come into play if there has been contravention of any of the provisions of the Act or the rules and Regulations. It would thus be seen that this provision is by way of penalty for breach of conditions of the licence or the provisions of the Act, the rules and Regulations, and thus the Legislature thought it fit to make provision for giving a hearing to the licensee, who allegedly committed the breach. In case of Clause (a), the inquiry regarding the breach is not involved and, therefore, the Legislature gave power to the Assistant Collector to cancel the licence by giving one month's notice in writing to the licensee without affording him an opportunity of being heard. It is well-settled that the principles of natural justice cannot travel into the terrain where the Legislature specifically debarred the application of the said principles of natural justice. Therefore, the challenge of arbitrariness of the provisions of Clause (a) of Sub-section (2) of Section 58 is without any merit. In the present case, since the public warehousing facility has been made available for the goods lying in the private warehouses of the petitioner, therefore, the Assistant Collector, keeping in view the provisions of Sub-section (1) of Section 58 of the Act, rightly pointed out to the petitioner in advance that the licence of the petitioner will not be renewed. No fault can be found in this order.

4. No other point has been urged.

5. For the reasons recorded, the petition fails and is hereby dismissed, with no order as to costs.