(2009) 07 UK CK 0068

In the Uttarakhand High Court

Case No : Writ Petition No. 1011 of 2007 (MS)

Vikas Palace	APPELLANT
Vs	
State of U.P. and Another	RESPONDENT

Date of Decision : 03-07-2009

Acts Referred:

Citation : (2009) 07 UK CK 0068

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : V.K. Kohli, a/b., L.P. Kohli, for the Appellant; K.P. Upadhyay, Addl. Chief Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J.—The Petitioner is running a Cinema Hall at Kashipur district Udham Singh Nagar in the name and style "Vikas Palace". According to the Petitioner, Cinema Hall was established under the Cinematograph Act, 1918 after taking proper licence from the concerned authorities in September, 1988. It is then stated by the Petitioner that a Govt. Order was passed by the erstwhile State of U.P. on 21st July, 1986 by which certain exemptions in the entertainment tax were granted to Cinema Halls, which were new Cinema Hall during the particular period, in order to encourage these new ventures.

2. There is no dispute regarding the fact that the Cinema Hall of the Petitioner came under the category of such entertainment tax exemptions in the said Govt. Order dated 21-7-1986.

3. According to the Petitioner as per the said Govt. Order, there was a full entertainment tax exemption to Petitioner for the first year, which would be in the case of the Petitioner from 17-9-1989 and thereafter in the second year, it would be an exemption of 75% of the entertainment tax, which in the case of the Petitioner would be from 17-9-1989 to 16-9-1990 and finally in the 3rd year, it would be exemption of 50% of the entertainment tax, which in the case of the

Petitioner would be from 17-9-1990 to 16-9-1991. This exemption of entertainment tax is only valid for three years.

4. According to the Petitioner, for five months during second i.e. between 17-9-1989 to 16-9-1990, the Cinema Hall of the Petitioner remained closed as a consequence of a bomb-blast in the Cinema Hall. The Petitioner has availed the exemption of entertainment tax of all the three years except these five months. According to the Petitioner, since the Cinema Hall had remained closed for five months, this period of five months should be extended and relief of 75% entertainment tax exemption must be given to the Petitioner in the year subsequent to the three years.

5. Evidently, such a contingency has not been envisaged in the Government Order dated 21st July, 1986, therefore, such a relief was not granted to the Petitioner. The case of the Petitioner is that although the District Magistrate, Nainital has been forwarding the case of the Petitioner for a sympathetic consideration to the Tax Authorities in the State, no action has been taken thereon. However, in the counter affidavit, the State Government has replied that no relief can be granted to the Petitioner as there is no such provision for extending the relief beyond the period of three years. Moreover, it has been stated that vide order dated 3rd October, 1991, the Joint Secretary of Government of erstwhile State of U.P., which has been addressed to the District Magistrate, Nainital, the request for extension of relief to the Petitioner has been denied.

6. In view of this Court also, provisions such as this, as to whether there are exemption of tax or of realization of tax have been strictly adhered to. Admittedly, there is no provision in the Govt. Order for granting relief to the Petitioner as is being sought. There is no question of any equity also in these tax matters. Moreover the relief sought by the Petitioner has already been rejected by the authorities in the erstwhile State of U.P. and reasons assigned are perfectly valid, therefore, no interference is required in this matter by this Court. The writ petition, is therefore, liable to be dismissed and is hereby dismissed. No order as to costs.

7. Interim Order, if any, also stands vacated.

