

SUPREME COURT OF INDIA

State of Rajasthan

Vs

Gopal Oil Mills

(J Verma amd N Singh JJ.)

23.02.1995

ORDER

J.S. VERMA, J.

C.A. No. 5738 of 1994 :

Taken on Board. I.A. No. 5 is allowed.

1. This appeal by special leave is against the judgment dated January 12, 1993 of a division Bench Reported in [1993] 89 STC 277 (Lokendra Industries v. State) of the Rajasthan High Court by which a bunch of writ petitions were allowed and the impugned notification dated May 7, 1990 withdrawing the benefit of a scheme granting exemption under the Central Sales Tax Act, 1956 and the State Sales Tax Act w.e.f. May 23, 1987 in respect of certain industries, was quashed. The material facts are these :

The scheme under which the writ petitioners claimed certain exemption from payment of tax under the State Sales Tax Act and the Central Sales Tax Act came into effect on May 23, 1987. A notification dated May 7, 1990 was issued which had the effect of withdrawing that benefit in respect of certain industries specified therein both under the State Sales Tax Act as well as the Central Sales Tax Act. Thereafter, on July 26, 1991, another notification was issued by which a part of the notification dated May 7, 1990 was revoked resulting in restoration of the same benefit to those industries only under the Central Sales Tax Act. The benefit under the State Sales Tax Act, which was withdrawn by the notification dated May 7, 1990, was however, not restored. In the writ petitions filed in the High Court, challenge was made to the validity of the notification dated May 7, 1990. Those writ petitions have been allowed by the impugned judgment resulting in quashing of the notification dated May 7, 1990 and thereby restoration of the benefit of the earlier scheme in respect of both the enactments. The State of Rajasthan has come up by special leave against the judgment of the High Court.

2. At the hearing of this appeal, learned counsel for the respondents stated on instructions at the very outset that the respondents confine their claim before us only to the withdrawal of benefit under the Central Sales Tax Act which benefit was restored w.e.f. July 26, 1991 by virtue of partial revocation

of the earlier notification dated May 7, 1990 to that extent. In other words, the notification dated May 7, 1990 to the extent it relates to withdrawal of the benefit under the State Sales Tax Act is concerned is now not challenged by the respondents. Accordingly, the question for consideration in this appeal is now limited only to the claim for exemption under the Central Sales Tax Act.

3. In view of the limited question, as indicated earlier, the point for consideration is whether the action of withdrawing the benefit under the Central Sales Tax Act by the notification dated May 7, 1990, found to be invalid by the High Court, is assailable. In our opinion, that part of the High Court's judgment does not call for any interference. The mere fact that action was taken to restore that benefit once again w.e.f. July 26, 1991 much prior to delivery of the judgment by the High Court on January 12, 1993 is a strong indication of the absence of any public interest to support withdrawal of that concession. Moreover, the State Government has been unable to support that action on the ground of public interest by producing any material to support that action and to indicate that the withdrawal of the benefit was in public interest only for the limited period between May 7, 1990 and July 26, 1991 in so far as it relates to withdrawal of the benefit granted earlier under the Central Sales Tax Act. This being the limited challenge by the respondents at this stage, no further question on merits survives for consideration. It is clear that impugned judgment of the High Court has to be modified to this extent. It need hardly be mentioned that the consequential benefit available to the respondents under the Central Sales Tax Act is for the period between May 7, 1990 and July 26, 1991 only.

4. The claim of the respondents under the State Sales Tax Act being no longer pressed before us, and the facts relating to that being different since there was no restoration of that benefit, as was the case under the Central Sales Tax Act, the judgment of the High Court to that extent is set aside.

5. We find that even after the impugned judgment of the High Court was rendered on January 12, 1993, eligibility certificates were issued to certain industrial units and a circular dated January 27, 1994 was also issued by the Director of Industries of the State Government on the same lines under which some benefit has been availed by those industrial units under the State Sales Tax Act. In these circumstances, we consider it appropriate to direct that the unveiled benefit under those eligibility certificates under the State Sales Tax Act would not be available to them but the extent to which the benefit under the State Act has been already availed up to April 4, 1994, the date on which the ex parte order of stay was made by this Court, on the basis of the eligibility certificate so issued, the State Government would not disturb that position by seeking to recover any amount under that head.

The appeal is disposed of accordingly.

No costs.

C.A. Nos. 6311 of 1994 and 7446 of 1994 :

In view of the order in the above appeal, these appeals are also disposed of accordingly.

No costs.