

SUPREME COURT OF INDIA

State of W.B.

Vs.

Flora Food Products

C.A.No.47 of 1998

(S. P. Bharucha, Ajay Prakash Misra and N. Santosh Hegde, JJ.)

25.01.2000

ORDER

1. The order under challenge is an interim order passed by the High Court at Calcutta in the following circumstances :

The assessee made an application for eligibility certificate under Rule 3(66a) of the Bengal Sales Tax Rules, 1941 claiming tax holiday for the period 11th May, 1990 to 31st, March, 1991. Their application was rejected in the first instance, in revision and also by the West Bengal Taxation Tribunal. Against the order of the Tribunal the respondents preferred a writ petition. The order under challenge was passed on that writ petition. It injuncted the appellants from making any demand for sales tax for three years from the month of April, 1990 onwards without the leave of the High Court. It appears that the writ petition still remains undisposed of.

2. The respondents are not represented. It is clear from the documents that we were shown that the respondents' application related to the period 11th May, 1990 to 31st March, 1991. It was the rejection of that application the respondents impugned by filing a writ petition. It is not understood

how in the writ petition a demand for sales tax for a period other than the period 11th May, 1990 to 31st March, 1991 could have been stayed.

3. The appeal is allowed. The order under appeal is modified so that the appellants are injuncted from making any demand for sales tax upon the respondents for the period 11th May, 1990 to 31st March, 1991.

4. No order as to costs.

Appeal allowed.