

SUPREME COURT OF INDIA

Bellary Steels & Alloys Ltd.

Vs.

Deputy Commnr., Commercial Taxes

C.A.No.4303 of 2006

(S.H. Kapadia and Aftab Alam JJ.)

12.08.2009

ORDER

1. Heard both sides at length.

2. Appellant(s) herein agree to withdraw the original Writ Petitions filed by them in the Karnataka High Court, unconditionally. In view of such withdrawal, the impugned judgment of the Division Bench as well as the judgment of the learned Single Judge will not survive. It is made clear that such withdrawal of the original Writ Petitions will not preclude the Trade from moving the Government with a proper representation explaining the fall-out of the impugned Notification dated 11th October, 1995 and loss of benefit on account of the impugned notification.

3. Today, when investments in the States is the need of the hour, the Government needs to consider such representations of the Trade keeping in mind the Industrial Policy, dated 12th July, 1993 as well as the Notification dated 28th October, 1993 as also the subsequent Industrial Policy vide Government Order dated 15th March, 1996 which, inter alia, contains an option to the assessee to opt for the old versus new policy.

4. The representation, if any, will be made by the Trade within a period of six weeks.

5. Before concluding, we may state that we have allowed the appellant(s) to withdraw the original Writ Petition as the said proceedings came to be filed against show cause notice. We have repeatedly held that in the absence of factual foundation, it would be impossible to decide matters of this kind. When doctrine of promissory estoppel is invoked, the doctrine needs to be based on factual data which has not been pleaded. The High Court should not have interfered in the matter. In these cases, the writ petition was filed without reply to even the show cause notice. In the circumstances, we could have dismissed these Civil Appeals only on the ground of failure to exhaust statutory remedy, but for the fact that huge investments involving the large number of industries is in issue. Subject to above, Civil Appeals are dismissed as withdrawn with no order as to costs.