

SUPREME COURT OF INDIA

State of Rajasthan

Vs.

Khangar Singh

C.A.No.9964 of 2014

(Anil R. Dave and Uday Umesh Lalit JJ.)

30.10.2014

JUDGMENT

ANIL R. DAVE, J.

1. Leave granted.

2. In this appeal, the judgment delivered by the High Court of Judicature for Rajasthan at Jodhpur, dated 26th November, 2013 in D.B. Civil Writ Petition No. 110 of 1999 has been challenged.

3. The Respondent is a dealer having license under the provisions of the Rajasthan Narcotics Drugs and Psychotropic Substance Rules, 1985 (hereinafter referred to as 'the Rules'). The Respondent was liable to pay license fees but as he could not pay the same, a notice dated 3.7.1998 had been issued to him by the District Excise Officer, Barmer, calling upon him to pay Rs. 27,72,712/-. Due to non-payment of license fees, in spite of the notice, an order dated 1.9.1998 was passed whereby license of the Respondent was cancelled and the security deposit was ordered to be forfeited.

4. The Appellant-State had framed a scheme named "Excise Amnesty Scheme-year 2009-10" (hereinafter called 'the Scheme') so as to give some relief to those licensees who had defaulted in the payment of excise duty/license fee. Under the Scheme, interest payable on arrears of excise duty was to be condoned on the fulfillment of certain conditions. The benefit under the said Scheme was to be given to those who were in arrears of excise duty/license fees as on 31st March,

2009 and had applied to avail the benefits under the Scheme on or before 31st March, 2010.

5. It is an admitted fact that the Respondent was in arrears on 31st March, 2009, but he had not made any application to avail benefit under the Scheme till 31st March, 2010.

6. The Respondent had filed a petition before the High Court challenging the aforesaid order dated 1.9.1998 and the validity of proviso to Sub-section (1) of Section 9A of the Rajasthan Excise Act, 1950.

7. After hearing the concerned counsel, without considering the validity of proviso to Sub-section (1) of Section 9A of the Rajasthan Excise Act, 1950, the High Court allowed the petition and directed that the Respondent should be given benefit under the said Scheme and directed the Respondent to pay in all Rs. 24,10,090/- along with 24% simple interest w.e.f. 1st April, 2010.

8. The learned Counsel appearing for the State had submitted that the High Court had no power to extend the date of Scheme so as to give benefit of the Scheme to the Respondent on 26th November, 2013, the day on which the said petition was finally heard though the Scheme had come to an end on 31st March, 2010.

9. Moreover, it was also submitted that in fact more than Rs. 80,00,000/- were due to be paid by the Respondent but the correct details about the liability of the Respondent was not revealed before the High Court.

10. According to the learned Counsel, the direction of the High Court giving relief to the Respondent under the Scheme, which had already come to an end, was not just and proper and therefore, he had prayed that the impugned judgment be quashed and set aside.

11. On the other hand, the learned Counsel appearing for the Respondent had tried to support the impugned judgment by submitting that the High Court had considered the real purpose behind the formulation of the Scheme and looking at the financial difficulties faced by the Respondent, the High Court had directed the Respondent to deposit the amount referred to hereinabove and had directed the

Appellants to accept the same as if the Respondent had applied under the scheme. He had, therefore, submitted that the appeal filed by the State deserved dismissal.

12. We have heard the learned Counsel and have considered the facts of the case as well as the Scheme.

13. Upon perusal of the Scheme it is clear that to avail benefit under the Scheme, the licensee in default or the one who was in arrears, ought to have applied under the Scheme before 31st March, 2010. It is an admitted fact that the Respondent had not submitted any application under the Scheme within the prescribed time period. It appears from the impugned judgment that the High Court was not informed about the relevant facts and the conditions for availing benefit under the Scheme, which had not been fulfilled by the Respondent. So as to know the bona fides of the Respondent, we had asked the learned Counsel whether the Respondent had paid Rs. 24,10,090/-, with interest thereon as directed by the High Court by its impugned judgment. We had been informed by the learned Counsel that even the said reduced amount had not been paid by the Respondent to the Appellant till the date of hearing of this appeal.

14. Looking at the facts of the case, in our opinion, the High Court has exceeded its jurisdiction. The High Court could not have given benefit under the Scheme to the Respondent when the Respondent had not applied under the scheme within the time period prescribed under the Scheme. Moreover, the High Court, while awarding relief to the Respondent, was not even aware of the exact amount which the Respondent was liable to pay.

15. For the foretasted reasons, we quash and set aside the impugned judgment and allow the appeal with no order as to costs.

16. It would be open to the Appellant-Authority to take appropriate action for recovery of the amount due and payable by the Respondent in accordance with law.