RAJASTHAN HIGH COURT

Krishi Upaj Mandi Samiti, Beawar

Vs.

Shree Gopal Products

D.B.S.A. (Writ) No. 352, 313 of 2002, 481 and 482 of 2004
(Ashok Parihar and K.S. Chaudhari, JJ.)

27.04.2009

JUDGMENT

Ashok Parihar and K. S. Chaudhari, JJ.

1. Since on similar set of facts the common order dated 18-2-2002 passed by the learned single Judge is under challenge, all the appeals have been heard together and are being decided by this common order.

2. Under the provisions of the Rajasthan Agricultural Produce Markets Act, 1961, the mandi tax could be imposed by an notification to be issued by the State Government. In the present case, the State Government vide notification dated 26-7-1995 as also dated 14-11-1996 granted certain exemptions on recovery of mandi tax in regard to newly established industries for a particular period. However, the above notifications dated 26-7-1995 and 14-11-1996 were withdrawn and cancelled by the State Government vide notifications dated 3-4-1998 and 7-4-1998 mainly on the ground that under the Act of 1961, there is no provision in regard to granting any exemption or relaxation on levy of mandi tax.

3. The notifications dated 3-4-1998 and 7-4-1998 came to be challenged by the respondents before this Court. While allowing the writ petitions vide impugned judgment dated 18-2-2002, the learned single Judge set aside both the impugned notifications dated 3-4-1998 and 7-4-1998 mainly on the ground of violation of principles of natural justice as also holding that the benefit granted earlier could not have been withdrawn without obtaining legal opinion of the Advocate General.

4. After hearing learned counsel for the parties, we have carefully gone through the material on record as also relevant provisions of the Act of 1961 and the Rules made

there under.

5. The power of levying mandi tax cannot be disputed. However, admittedly, there is no provision under the Act of 1961 or the Rules made there under in regard to granting any exemption or relaxation in levying of such mandi tax in part or for a particular period. The benefit which could not have been granted under the particular statute can always be withdrawn by the State Government. In such circumstances, the principles of natural justice are not attracted. Learned counsel for the respondents could not show any provision wherein the legal opinion of the Advocate General was mandatory. However, even otherwise, there is a legal presumption that before issuing a notification, the opinion of the Advocate General must have been obtained by the concerned authorities. Learned counsel for the respondents also raised the plea of doctrine of promissory estoppel. However, as has already been referred above, once a benefit could not have been granted under a statute, the principle of doctrine of promissory estoppel would not come into play in case of any subsequent withdrawal, moreso, when such benefit has not been claimed under any other statute.

6. Having considered entire facts and circumstances, in our opinion, the impugned judgment dated 18-2-2002 passed by the learned single Judge cannot be sustained in the eye of law. Accordingly, the appeals are allowed. The impugned judgment dated 18-2-2002 passed by the learned single Judge is quashed and set aside. There shall be no order as to cost.

Appeals allowed.