

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2605 OF 2009
(Arising out of SLP(C) No.16955 of 2008)

STATE OF HARYANA & OTHERS

...APPELLANT (S)

VERSUS

M/S JOHNSON MATTHEY INDIA PVT.LTD.

...RESPONDENT(S)

ORDER

Leave granted.

Civil Writ Petition No. 12075 of 2007 was a Writ Petition filed under Article 226 of the Constitution by M/s Johnson Matthey India Private Limited (respondent herein). In the Writ Petition the prayer was to quash Order dated 7.6.2007 passed by the Director of Industries and Commerce, Haryana, communicating the decision of Higher Level Screening Committee (for brevity, 'the Screening Committee') constituted under Rule 28C(o) of Haryana General Sales Tax Rules, 1975. It may be stated that the said Screening Committee had withdrawn the benefit of sales tax concession of Rs.885.15 lacs, granted in favour of respondent No. 1 herein, pursuant to the decision of the Screening Committee earlier taken on 6th December, 2004 in its 89th meeting. The prayer in the Writ Petition was to maintain the said earlier decision dated 6th December, 2004 in favour of respondent No. 1 which, as stated above, stood subsequently rescinded by the impugned order dated 7th June, 2007.

The narrow controversy which arises in this civil appeal is whether the Unit stood registered with the Department of Industries in terms of Rule 28C(o) in Chapter 4C

of Haryana General Sales Tax Rule, 1975, before the cut off date, namely, April 30, 2000?

Having heard learned counsel on both sides, the controversy is with regard to: which is the registering authority contemplated by Rule 28C(o); whether there is a difference between IEM and Registration under the said Rule; whether the competent authority had registered the Unit as required under Rule 28C(o) on or before the cut off date, namely, 30th April, 2000; and whether there is a difference between Application for Foreign Collaboration and IEM conceptually?

Having heard learned counsel on both sides we find that relevant points were neither pleaded nor argued before the High Court. Even requisite documents which were shown to us during the course of hearing by both sides were not placed before the High Court.

In the circumstances, without expressing any opinion on the merits of the case and keeping all questions of law open, we set aside the impugned judgment of the High Court and remit the case to the High Court for fresh consideration in accordance with law.

Accordingly, we restore Civil Writ Petition No. 12075 of 2007 on the file of the High Court. We give liberty to the parties appearing before us to file additional documents. Liberty is also being given to the parties appearing before us to file additional/fresh affidavits. We are directing respondent herein, who was the original petitioner in the High Court, to implead the Union of India, Ministry of Commerce and Industries, in the above Writ Petition, within a period of four weeks from today. We request the High Court to expeditiously hear and dispose of the above Writ Petition, preferably within six months.

Learned senior counsel appearing on behalf the appellant herein fairly states that during the pendency of the Writ Petition before the High Court and for a period of two weeks thereafter, they will not take steps to recover the dues, if any. Accordingly, this

civil appeal stands disposed of with no order as to costs.

.....J.
[S.H. KAPADIA]

New Delhi,
April 16, 2009

.....J
[AFTAB ALAM]



ITEM NO.1
(Part heard)

COURT NO.5

SECTION III

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil)No. 16955/2008

**(From the judgment and order dated 27/11/2007 in CWP No. 12075/2007
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)**

STATE OF HARYANA & ORS.

Petitioner(s)

VERSUS

M/S.JOHNSON MATTHEY INDIA PVT.LTD.

Respondent(s)

**(With appln. for modification of Court's Order dated 8.7.2008 and with prayer for interim
relief)(for final disposal)**

Date: 16/04/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA

HON'BLE MR. JUSTICE AFTAB ALAM

For Petitioner(s) Mr. Anoop G. Chaudhari, Sr.Adv.

Mr. Prabhat Kumar, Adv.

Mr. Sandeep Chaturvei, Adv.

Mr. Arvind Nayyar, Adv.

Ms. Naresh Bakshi, Adv.

For Respondent(s) Mr. S. Ganesh, Sr.Adv.

Mr. S. Prasad, Adv.

Mr. Sudhir Sharma, Adv.

Mr. Sanjeev Sharma, Adv.

Mr. Manu Krishnan, Adv.

**UPON hearing counsel the Court made the following
O R D E R**

Leave granted.

The appeal is disposed of with no order as to costs.

(S.Thapar)
P.S.to Registrar

(Madhu Saxena)
Court Master

The signed order is placed on the file.

